

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Revision No.2507 of 2018
Date of Decision:-02.04.2019**

Amit Kumar

...Petitioner

Versus

Sanjay Walia

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Amit Parashar, Advocate
for the petitioner.

Mr. Pawan Ranga, Advocate
for the respondent.

MANOJ BAJAJ J.(Oral)

Petitioner Amit Kumar has filed the present criminal revision against the judgment dated 25.7.2018 passed by Appellate Court, whereby it has upheld the judgment of conviction and order of sentence dated 13.5.2016, passed by the Judicial Magistrate 1st Class, Chandigarh, whereby the petitioner has been sentenced to undergo rigorous imprisonment for two years rigorous imprisonment. The prosecution pertained to the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

At the time of issuing notice of motion on 03.8.2018, learned counsel for the petitioner relied upon the intention of petitioner to settle the matter with the complainant-respondent. The order dated 03.8.2018 reads as under :-

“Learned counsel for the petitioner submits that he is willing to settle the matter with the complainant-respondent. He has handed over three demand drafts worth Rs.7.5 lakhs in all. Photocopies of the same are taken on record and the originals have been returned to learned counsel for the petitioner. He submits that the balance amount shall be paid to the complainant-respondent within two months from today.

Notice of motion for 05.09.2018.

Meanwhile, the sentence of the petitioner is suspended till the next date of hearing and he is ordered to be released on bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Chandigarh.”

On 05.9.2018, learned counsel for the respondent submitted that he has received the demand drafts amounting to Rs.7.5 lakhs and the respondent would be willing to settle the matter in case the balance amount is paid as mentioned in order dated 03.8.2018.

On 26.10.2018, following order was passed by this Court :-

“Learned counsel for the petitioner has handed over two demand drafts for a sum of Rs.3.5 lacs to learned counsel for the complainant in Court today. Photocopies of the same have been taken on record.

Learned counsel for the petitioner prays for four weeks' time to make the balance payment of Rs.4 lacs.

Adjourned to 07.12.2018.

It is made clear that no further adjournment shall be granted.”

However, on 07.12.2018 the matter was adjourned to 02.4.2019. Today, learned counsel appearing on behalf of petitioner has

produced the demand draft amounting to Rs.4 lakhs in favour of respondent-complainant. Photocopy of the same is taken on record while the original demand draft has been handed over to learned counsel for the respondent-complainant.

At this stage, learned counsel for the respondent states that he has no objection in compounding the offence in case reasonable amount towards litigation expenses is paid by the convict.

Learned counsel appearing on behalf of petitioner offers to pay a sum of Rs.40,000/- towards litigation expenses, which is acceptable to learned counsel appearing on behalf of respondent-complainant.

In view of the above, the prayer for compounding of offence is accepted and the impugned judgment passed by the Appellate Court dated 25.7.2018 upholding the judgment of conviction passed by the Judicial Magistrate 1st Class, Chandigarh dated 13.5.2016, is set aside and the complaint filed under Section 138 of Negotiable Instruments Act, 1881 is rendered inconsequential.

It is made clear that the litigation expenses be paid by way of Demand Draft in favour of respondent-complainant within a period of one month and non-payment of the litigation expenses within the time prescribed would result in revival of the present petition.

Disposed off.

April 02, 2019

Vijay Asija

Whether speaking/reasoned

Whether Reportable

(MANOJ BAJAJ)

JUDGE

Yes / No

Yes / No