

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

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**CRR No. 299 of 2018 (O & M)
Date of decision : 25.11.2019**

Yogesh Yadav

.....Petitioner

Vs.

Anil Kumar (deceased) through LR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Karan Pathak, Advocate, for the petitioner

Mr. Sanjay Verma, Advocate, for the respondents

Rajbir Sehrawat, J. (Oral)

CRM No. 10847 of 2019 :

This is an application for placing on record the receipts of Rs.47,500 and Rs.10,000/-, the amount deposited as per the directions of this Court.

For the reasons mentioned in the application, the same is allowed. Receipts of Rs.47,500/-and Rs.10,000/- are taken on record as Annexures P-3 and P-4.

CRM No. 10953 of 2018 :

This is an application filed by the respondent/LRs of complainant for release of the amount of Rs.4.50 lakhs which was deposited by the petitioner with the Registry of this Court through Bank drafts pursuant to order dated 5.2.2018 passed by this Court.

Since vide subsequent order dated 8.1.2019 of this Court, the above said amount of Rs.4.50 lakhs, after revalidating the 3 drafts each of

Rs.1.50 lakhs, are handed over to learned counsel for the complainant in the Court itself, therefore, the present application has been rendered infructuous.

Disposed of as such.

Main Case :

This is a revision petition challenging the judgment dated 17.1.2018, passed by learned Additional Sessions Judge, Gurugram, whereby, the appeal filed by the present petitioner was dismissed and the judgment of conviction dated 20.3.2017 under Section 138 of the Negotiable Instruments Act and the order of sentence dated 23.3.2017, passed by Judicial Magistrate 1st Class, Gurugram, in Criminal Complaint No.569 MY of 2014, sentencing the petitioner to six months of simple imprisonment and to pay compensation to the tune of Rs.4.50 lakhs, against the cheque amount of Rs.3.75 lakhs, was upheld.

During the pendency of the present petition, the parties appeared to have compromised the matter. Therefore, matter was referred to the Mediation Centre of this Court and ultimately, the parties have compromised the matter. Since by pleading compromise, the petitioner had sought compounding of the offence punishable under Section 138 of the Negotiable Instruments Act, therefore, vide order dated 8.1.2019, the petitioner was directed to deposit a sum of Rs.57,500/- (out of which Rs.47,500/-with Haryana State Legal Services Authority, Chandigarh and Rs.10,000/-with the Institute of Blind, Sector 26, Chandigarh) as compounding costs in terms of the judgment of Hon'ble the Supreme Court in case of ***Damodar S. Prabhu Vs. Sayed Babalal H. 210 AIR (SC) 1907***. The amount required to be deposited by him was reduced a little bit in view of the submissions made by counsel

regarding the economic condition of the petitioner.

Pursuant to the above said order dated 8.1.2019, learned counsel for the petitioner has placed on record receipts of Rs.47,500/-, deposited in the Haryana State Legal Services Authority, Chandigarh and of Rs.10,000/-, deposited with the Society for the care of Blind, Sector 26, Chandigarh.

Counsel for the petitioner submits that since the matter has been amicably settled between the parties, therefore, the parties may be permitted to compound the offence; and by setting aside the judgments/orders passed by the Courts below, the petitioner be ordered to be acquitted of the charges.

Learned counsel appearing on behalf of the respondent/complainants, does not dispute the compromise arrived at between the parties. He has expressed his no objection for compounding of the offence as prayed by the counsel for the petitioner.

In view of the above, finding the prayer of the petitioner to be genuine and in view of the fact that the matter has been amicably settled between the parties, this Court finds that it would not be unjustified if the offence, for which the petitioner has been convicted, is permitted to be compounded; in terms of the above said judgment of Hon'ble the Supreme Court in ***Damodar S. Prabhu's case (supra)***.

Accordingly, the present revision petition is allowed. Necessary permission for compounding of offence under Section 138 of the Negotiable Instruments Act, for which the petitioner was convicted and sentenced by the trial Court, is granted. As a result of compounding, the judgment of conviction dated 20.3.2017, under Section 138 of the Negotiable Instruments Act and the order of sentence dated 23.3.2017, passed by Judicial Magistrate 1st Class,

Gurugram, in Criminal Complaint No.569 MY of 2014, and the judgment/order dated 17.1.2018 passed by learned Additional Sessions Judge, Gurugram, are set aside and the petitioner stands acquitted of the charge levelled against him.

25.11.2019

Ashwani

(RAJBIR SEHRAWAT
JUDGE

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No