

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

CRR-3678-2018 (O&M)

Date of Decision: 16.09.2019

Jitender Kumar

... Petitioner

Vs.

Sunita Kamboj and another

... Respondents

CORAM : HON'BLE MS. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Munish Mittal, Advocate
for the petitioner.

Mr. Rahul Makkar, Advocate
for respondent No.1.

Mr. Deepak Grewal, D.A.G. Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the judgment of conviction dated 10.02.2015 and order of sentence dated 11.02.2015 passed by Judicial Magistrate Ist Class, Jagadhri, vide which the petitioner was held guilty and convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act and he was sentenced to undergo rigorous imprisonment for a period of one year and further to pay compensation to the tune of Rs.7,50,000/- in terms of Section 357 (3) Cr.P.C to the complainant within two months. In default of payment of compensation, the convict was further to undergo rigorous imprisonment for three months as well as judgment dated 1.6.2017 passed by the Appellate Court vide which the appeal filed by the petitioner was dismissed.

Brief facts of the case are that on account of dishonouring of cheque of Rs.7,00,000/-, the respondent-complainant filed a complaint

under Section 138 of the Negotiable Instruments Act in which the petitioner was held guilty.

Learned counsel for the petitioner has submitted that before filing of the present revision petition, the petitioner has also settled the dispute with the complainant and has executed a sale deed in lieu of compensation awarded by the trial Court. As such, the sentence of the petitioner was suspended on 2.11.2018 considering the fact that the complainant has given an affidavit that the matter has been compromised with the petitioner.

The case was sent to the Mediation and Conciliation Centre of this Court for recording the statements of the parties. Both the learned counsel for the parties appeared before the Mediation and Conciliation Centre of this Court and have acknowledged that the petitioner has also executed a sale deed dated 26.9.2018 in favour of Sunita Kamboj and her husband. In this regard, the complainant-Sunita Kamboj and her husband have duly sworn an affidavit that they have no objection if this petition is allowed.

Learned counsel for the petitioner has relied upon the judgment of Hon'ble the Supreme Court in the case of **Sri Ashis Subba** v. **Manoj Kumar Aggarwal and another**; 2018 (1) R.C.R. (Criminal) 971 wherein Hon'ble the Supreme Court has held that even after conviction if the parties have settled the dispute, conviction/sentence can be set aside.

After hearing learned counsel for the parties as also in view of the judgment of Hon'ble the Supreme Court in the case of Sri Ashis Subba (supra), this petition is allowed. The judgment of conviction dated 10.02.2015 and order of sentence dated 11.02.2015 passed by Judicial

Magistrate Ist Class, Jagadhri as well as judgment dated 1.6.2017 passed by the Appellate Court are set aside and the petitioner is acquitted of the charges.

16.09.2019
rajeev

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No