

S.No.119

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

CRR No.3783 of 2018 (O&M)

Date of Decision:23.09.2019

Manoj Kumar

.....Petitioner

Vs.

State of Haryana and another.

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sandeep Bajaj, Advocate for Mr. Balbir Kumar Saini,
Advocate for the petitioner.
Mr. Vikas Malik, DAG, Haryana.
Mr. Harmanpreet Singh, Advocate for Mr. Hamid Hussain,
Advocate for the complainant.

Rajbir Sehrawat, J.(Oral)

This is a revision petition challenging the judgment/order dated 26.10.2018 passed by Sessions Judge, Panchkula, whereby, the appeal filed by the present petitioner was dismissed and the judgment of conviction dated 03.10.2017 and order of sentence dated 04.10.2017, under Section 138 of the Negotiable Instruments Act, passed by JMIC, Panchkula, sentencing the petitioner to rigorous imprisonment for a period of one year and to pay compensation equivalent to the cheque amount i.e. Rs.50,000/-, was upheld.

During the pendency of the present petition, the parties appeared to 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, a prayer was made by counsel for the petitioner, to send the matter to the Mediation and Conciliation Centre of this Court for settling the dispute between the parties. Accordingly, vide this Court's order dated 06.12.2018, the matter

was referred to Mediation and Conciliation Centre of this Court.

In compliance of the order dated 06.12.2018, report of Mediator, has been received, wherein, it has been noticed that the parties have reached an amicable settlement resolving the disputes and differences with their free consent and without any pressure or undue influence from any quarter.

Although the quashing of the proceedings is being done at the stage of revision against conviction and sentence under Section 138 of NI Act and as per the judgment of the Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H. 210 AIR (SC) 1907**, the petitioner is required to deposit the compounding charges as well, however, since the cheque amount itself is Rs.50,000/-, therefore, this Court finds it to be a case where a lenient view can be taken in the matter of deposit of the compounding charges. Accordingly, the payment of compounding charges is waived of in this case.

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.

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

The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do

not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.

However more often than not the civil disputes or inter-se conflicts of two parties transform themselves into criminal aspect. Therefore, the legal system plays a role to resolve the conflict between two parties; with the added task of ensuring that the adverse impact of dispute on society at large is minimized. But still the core idea is to resolve the conflict between two sides by putting it to rest. Therefore, even the criminal law is required to give due regard to the wishes of the parties to dispute. Recognizing this principle only, the Indian legal System also provides for recognizing the compromise between two sides of a criminal dispute. Section 320 Cr.P.C. is an express provision in this regard. This section not only provides for compounding during the trial, but permits compounding even at appellate or revisional stage. However by its very nature and scope, Section 320 Cr.P.C. cannot be the sole repository; wherein the recognition to a compromise between the parties have; necessarily; to be confined. This section relates only to the offences prescribed under the Indian Penal Code.

There are a lot more offences prescribed outside IPC. Even to the offences existing in the IPC new dimensions are added from time to time, making the existing offences to be lighter or stringent and even new modalities of proof of offences are being recognised in view of technological advancement. This necessitates and requires the need for looking beyond Section 320 Cr.P.C. to recognise the compromise between the parties to dispute. But to maintain the sanctity of the procedure prescribed for criminal trial; the Trial Court cannot be permitted to travel beyond the scope prescribed under that procedure. Hence the need for invoking Section 482 Cr.P.C. by the High Court.

So far as offence under Section 138 of NI Act is concerned, even the NI Act permits the compounding of offence at any stage.

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, judgment of conviction dated 03.10.2017 and order of sentence dated 04.10.2017 under Section 138 of the Negotiable Instruments Act, passed by JMIC, Panchkula in Criminal Complaint No.Nact/505/2016, and the judgment/order dated 26.10.2018 passed by learned Sessions Judge, Panchkula are set aside and the petitioner stands acquitted of the charge levelled against him.

September 23, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No