

CRR No.3822 OF 2018

1

239

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.3822 OF 2018(O&M)
Date of Decision: 26.03.2019

Avtar SinghPetitioner

versus

Surinder SinghRespondent

CORAM HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present Mr. Deepak Bhardhwaj, Advocate for the petitioner.
Mr. Amandeep Singh, Advocate
for Mr. Manish Bhardwaj, Advocate for respondent.

MAHABIR SINGH SINDHU, J (ORAL)

The present revision petition has been filed against the impugned judgment dated 14.08.2018, passed by learned Additional Sessions Judge, Rupnagar affirming the orders dated 09/10.01.2017 of learned Judicial Magistrate Ist Class, Rupnagar (for short 'JMJC'), whereby the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and sentenced to undergo simple imprisonment for one year along with amount of compensation for ₹50,000/- to be paid to the complainant – respondent with default clause to undergo additional imprisonment for a period of six months.

Brief facts of the case are that on 01.11.2013, petitioner borrowed ₹4,50,000/- from the respondent for domestic purpose as a friendly loan and assured that the same shall be returned shortly. On 21.07.2014, respondent demanded his money back and in order to discharge

the legal liability, petitioner issued a cheque bearing no.309319 dated 21.07.2014 to the tune of ₹4,50,000/- drawn on Bank of Maharashtra, Branch Ropar from his account no.20103003880, but after presentation, the same was dishonored on 21.07.2014 due to "Account Closed". The respondent served a statutory legal notice dated 28.07.2014, but of no effect and hence the complaint was filed.

On the basis of the preliminary evidence led by the respondent, the petitioner was summoned to face trial for the commission of offence punishable under the Act, thereafter, notice of acquisition was served to him, but he pleaded not guilty and claimed trial.

In order to prove his case, the complainant – respondent no.1 stepped into the witness box as CW1 and also examined Gurmeet Singh, Clerk, Canara Bank, Distt. Ropar as CW2 and Sanjeev Kumar Clerk, Bank of Maharashtra as CW3 and closed his evidence.

After closure of the evidence of the complainant, statement of petitioner under Section 313 Cr.P.C was recorded, wherein he pleaded innocence and claimed false implication. In defence, petitioner examined Gurdeep Singh as DW1, Gurinder Singh as DW2, HC Manmohan Singh as DW3 and Pardeep Kumar as DW4 and closed the evidence.

After hearing both sides and perusal of the record, the petitioner was convicted and sentenced by learned JMIC to undergo rigorous imprisonment for one year along with compensation amount of ₹50,000/- to be paid to the complainant – respondent recoverable after the lapse of period of appeal unless the operation of compensation amount order is stayed in appeal and on default, he was further sentenced to undergo additional

imprisonment for a period of six months.

The said judgment of conviction and order of sentence was affirmed by learned Additional Sessions Judge while passing the impugned judgment dated 14.08.2018, hence the present petition.

During the pendency of the revision petition, this Court, vide order dated 05.02.2019, granted interim bail to the petitioner on the plea that he is ready to settle the dispute with the respondent. The matter was also referred to Mediation and Conciliation Centre of this Court on 14.03.2019 for amicable settlement of the dispute between the parties and report dated 14.03.2019 of Mediator has been received to the effect that matter stands compromised.

Learned counsel for the petitioner has relied upon judgment of the Hon'ble Supreme Court in **Madhya Pradesh State Legal Authority v. Prateek Jain and another 2014(10) SCC 690** to contend that as the matter has been compromised in Mediation and Conciliation Centre of this Court.

Learned counsel for the respondent has not raised any objection in case the prayer of the petitioner is accepted by this Court.

Heard learned counsel for the parties and perused the paper book carefully.

Perusal of paragraph no.4 of the Settlement Agreement attached with the report of Mediator reveals that on certain terms and conditions after receiving ₹90,000/- as full and final payment of all the claims of respondent, petitioner has completely discharged his liability by making the payment and now parties do not want to continue with the litigation.

It is not in dispute that Section 147 of the Act postulates that

every offence punishable under this Act is compoundable. It is now well settled principle of law that once the erring party has made the payment of entire amount, then both the parties with their consent, are entitled to compound the offence, as contemplated under Section 147 of the Act and the same is no more res-integra. The Hon'ble Supreme Court in case **K.Subramanian Vs. R.Rajathi Represented by P.O.A.P.Kaliappan, (2010) 15 Supreme Court Cases 352** has held that under such circumstances, the parties be permitted to compound the indicated offence and the relevant para No. 8 thereof reads as under: -

“8. Having regard to the salutary provisions of Section 147 of the Negotiable Instruments Act read with Section 320 of the Code of Criminal Procedure, this Court is of the opinion that in view of the compromise arrived at between the parties, the petitioner should be permitted to compound the offence committed by him under Section 138 of the Code.”

It is proved on record that the parties have compromised the matter and the petitioner-convict has already made the entire payment.

Thus, it would be in the interest of justice that parties be allowed to compound the offence to enable them to live in peace in future. Even otherwise, there is no legal impediment in this case and the same is covered by the ratio of law laid down by the Hon'ble Supreme Court in the case of **K. Subramanian's case (supra)**.

In view of the above, approval is granted for compounding the offence under Section 138 of the Act. The present revision petition is allowed and the impugned judgments passed by the Courts below are set

aside and the petitioner is acquitted of the charge framed against him,
subject to payment of costs of ₹10,000/-, to be deposited before the High
Court Legal Services Committee, within a period of 30 days.

26.03.2019	(MAHABIR SINGH SINDHU)
mamta	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No