

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

**CRR-587-2018 (O&M)
Date of Decision: 21.2.2019**

Ranjit Singh alias Deepu

.....PETITIONER(s).

VERSUS

Mohinderpal Bansal

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. C.L.Pawar, Sr. DAG, Punjab.

Mr. Nipun Gupta, Advocate,
for the respondent.

RAJ SHEKHAR ATTRI, J.

This is a revision petition against the order dated 15.1.2018 passed by learned Sessions Judge, Bathinda dismissing the appeal filed by the petitioner against the judgment dated 10.10.2016 passed by learned Judicial Magistrate, 1st Class, Bathinda whereby on the complaint filed by Mohinderpal Bansal (hereinafter referred to as the complainant) against present petitioner-Ranjit Singh @ Deepu, the latter was convicted and sentenced to undergo rigorous imprisonment for a period of two years with fine of ₹ 5,000/- and in default of payment of fine, he was further sentenced to undergo simple imprisonment of 30 days for the offence punishable under Section 138 of Negotiable Instruments Act.

During the pendency of the appeal, a compromise (Annexure A-1) has been effected. Complainant-Mohinderpal Bansal has already submitted his affidavit wherein he stated that he has no objection if this revision is accepted and the petitioner/accused be acquitted.

I have heard learned counsel for the parties and gone through the record.

Offence under Section 138 of Negotiable Instruments Act is compoundable under the provisions of Section 147 of the Act.

Under the provisions of Sub Section 8 of Section 320 of the Code of Criminal Procedure, the composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

The revisional court has all powers of an appellate court. The High Court while exercising the revisional powers in its discretion exercise any of the powers conferred on a court of appeal by Section 401 of the Code of Criminal Procedure. This section reads as under : -

“401. High Court' s Powers of revisions.

[\(1\)](#) In the case of any proceeding the record of which has been called for by itself or Which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

[\(2\)](#) No order under this section shall be made to the prejudice of the accused or other person unless he has had an

opportunity of being heard either personally or by pleader in his own defence.

[\(3\)](#) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

[\(4\)](#) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

[\(5\)](#) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

Sub Section 5 of Section 320 of the Code of Criminal Procedure provides that the offence can be compounded with the permission of the Court. This Section reads as under : -

[“\(5\)](#) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.”

Said permission has been sought by filing CRM-M-5544-2018.

By applying the analogy as contained in Section 320(8) of the Cr.P.C. as well as while exercising the powers of revisional court

under the provisions of Section 401 of the Cr.P.C., this Court is of the opinion that after compounding the offence, the petitioner is entitled to acquittal as the offence under Section 138 of Negotiable Instruments Act is compoundable.

In this view of the matter, the parties were allowed to compound the offence. The same has already been compounded. Consequently, the present revision is allowed and the impugned judgments of conviction and order of sentence passed by both the courts below are set aside. The petitioner is acquitted of the charges framed against him on the basis of compounding of the offence. The amount of fine if any deposited by him shall be refunded to him against proper receipt.

February 21, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>