

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

CRR No. 719 of 2018 (O&M)

Date of decision: 08.01.2019

Avinash Gaur

...Petitioner

Versus

Urmil Gaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sanjay Vashisth, Advocate
for the petitioner.

Mr. Karan Gupta, Advocate
for respondent No. 1.

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the judgment of conviction dated 01.05.2015 and order of sentence of the even date, passed by the trial Court, vide which, the petitioner was held guilty for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) and was sentenced to undergo rigorous imprisonment for a period of one and a half years and to pay the compensation equivalent to half of the cheque amount i.e. ₹5,25,000/-; as well as the judgment dated 14.02.2018, vide which, the appeal filed by the petitioner was dismissed by the lower appellate Court.

On 26.02.2018, while issuing notice of motion, the petitioner was directed to bring a demand draft of ₹ 6,00,000/- in the name of the complainant. Later on, on 12.03.2018, the petitioner handed over a demand

draft of ₹6,00,000/- to the complainant and the sentence of the petitioner was suspended. Thereafter, the case was referred to Mediation and Conciliation Centre of this Court for exploring the possibility of an amicable settlement. Thereafter, on 30.08.2018, it was noticed that the parties have amicably settled the dispute wherein the petitioner had undertaken to pay a total amount of ₹14,50,000/- as full and final settlement to respondent No. 1/complainant.

Subsequent thereto, on 15.10.2018, the petitioner has handed over two demand drafts of ₹4,00,000/- and ₹4,50,000/- to respondent No. 1/complainant in the Court itself towards the full and final settlement of his claim.

Learned counsel for respondent No. 1/complainant has acknowledged the fact that as per the settlement, arrived at between them, the entire payment has been received by respondent No. 1/complainant.

In view of the above, it is submitted by learned counsel for the parties that the present petition be allowed and the offence be compounded in view of the provisions of Section 147 of the N. I. Act.

After hearing both the parties and considering the fact that the parties have amicably settled their dispute and no other litigation is pending between them, the permission is granted to compound the offence under the provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in **2018 (1) R.C.R. (Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another** that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, this revision petition is allowed and judgment of conviction dated 01.05.2015 and order of sentence of the even date, passed by the trial Court, as well as the judgment dated 14.02.2018, passed by the lower appellate Court, are set set aside.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement arrived at between them.

January 08, 2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>