

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

114+284

**CRM-26783-2019 IN/AND
CRR-1583-2019 (O&M)
DATE OF DECISION: 27.09.2019**

ROOP SINGH

... Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Jasdeep Singh, Advocate
for the petitioner(s).

Mr. Dhruv Dayal, Senior DAG, Punjab.

Mrs. Daljit Kuar Gill, complainant in person.

ANUPINDER SINGH GREWAL, J. (ORAL)

CRM-26783-2019

Application is allowed and the documents annexed as
Annexures A-1 to A-15 (Colly.) are taken on record.

CRM-20305-2019

This application is for condonation of delay of 8 days in
preferring the revision petition.

It is stated in the application that the applicant/petitioner is
a poor person and he could not engage counsel in time for preferring the
revision petition. Therefore, the delay of 8 days has occurred.

Heard.

For the reasons stated in the application, the same is allowed and delay of 8 days in preferring the revision petition is condoned.

MAIN CASE

The petitioner has challenged the judgments of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act') and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.7,000/-.

Learned counsel for the petitioner contends that the allegation against the petitioner is that the cheque issued by the petitioner for a sum of Rs.7 lakh on 24.04.2009 was stated to have been dishonoured on account of insufficient funds. He further states that the matter has been compromised and he has paid the entire amount to the complainant in terms of his statement. Learned counsel for the petitioner states that in the light of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663** the sentence of the petitioner may be compounded. He also states that the petitioner is facing financial difficulty, therefore, the costs be reduced.

The complainant, who is present in person, states that the matter has now been compromised and she has no objection if the offence of the petitioner is compounded.

Heard.

The offence under Section 138 of the Act is compoundable even at this stage in the light of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H. (supra)**. The petitioner has been convicted under Section 138 of the Act. As the dispute has been settled by the parties as the petitioner has repaid the entire loan amount which includes the cheque amount to the respondent, it would, therefore, be in the interest of justice, if the offence is compounded under Section 147 of the Act. The liability under Section 138 of the Act is civil in nature and in case the parties have arrived at compromise, the same should be accepted to give quietus to the litigation.

Consequently, the petition is allowed. The judgment and order of sentence dated 17.07.2015 passed by the trial Court and the judgment dated 30.03.2019 passed by the Appellate Court, are set aside. The petitioner is acquitted of the charges framed against him. The petitioner be released forthwith, if he is not required in any other case.

The petitioner is directed to pay Rs.30,000/- as cost to the Punjab Legal Services Authority within one month.

27.09.2019

SwarnjitS

(ANUPINDER SINGH GREWAL)

JUDGE

Whether speaking/reasoned:
Whether reportable

: Yes / No
: Yes / No