

In the High Court of Punjab and Haryana at Chandigarh

417

CRR-1708-2019 (O & M)

Date of Decision: December 18, 2019

RAJNISH WADHERA AND ANR.

.....PETITIONERS

VERSUS

**M/S TEXTILE (P) LTD. THROUGH
ITS DIRECTOR J.P KESWANI.**

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. L.M. Grover, Advocate and
Ms. Priyanka Arora, Advocate
for the petitioners.

Mr. Yash Dev Kaushik, Advocate
for the respondent.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioners have challenged the judgments and orders of the Courts below whereby petitioner No.1 has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay the compensation of ₹16,33,900/-.

The allegations against petitioners are that cheques for a total sum of ₹8,16,000/- issued by the petitioners were stated to have been dishonoured on account of insufficient funds.

Learned counsel for the petitioners contends that the matter has finally been compromised with the respondent-complainant for a total sum of ₹10 lacs. A sum of ₹4 lacs had earlier been paid to the complainant. He has handed over a demand draft for an amount of ₹6 lacs to the counsel for the complainant in Court today.

Learned counsel for the complainant states that the matter has indeed been compromised and the petitioners have paid a total sum of ₹10 lacs towards full and final settlement.

Learned counsel for the petitioners contends that the petitioners have suffered losses in business and exhausted all resources for making payment to the complainant in this case, therefore, the cost be reduced to a reasonable amount.

Heard.

The allegations against the petitioners are that cheque issued by them was dishonoured on account of insufficient funds. The liability under the Act is primarily civil in nature. Now the matter has been compromised and the petitioners have paid a total sum of ₹10 lacs towards full and final settlement.

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., 2010 (5) SCC 663**. The petitioner has been convicted under Section 138 of the Act. The dispute has been settled by the parties as the petitioner has made the payment, it would 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 29.07.2017 passed by the trial Court and judgment dated 04.07.2019 passed by the Appellate Court, are set aside.

The petitioners are acquitted of the charges framed against them. They be released forthwith, if they are not required in any other case.

The petitioners shall deposit ₹25,000/- as costs with the Haryana Legal Services Authority within a month.

(ANUPINDER SINGH GREWAL)
JUDGE

December 18, 2019

A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No