

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

127

CRR No.1812 of 2019 (O&M)

Date of decision : 06.09.2019

Kuldeep Singh

... Petitioner

Versus

State of Punjab and another

.. Respondents

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Jagpal Singh, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

CRM-26755-2019

This application is for placing on record the compromise and a copy of the demand draft no.026487 dated 29.08.2019 amounting to ₹ 5 lacs in favour of respondent No.2.

Heard. For the reasons stated in the application, the same is allowed and the afore-noted documents are taken on record.

Main case

The petitioner has challenged the orders of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for six months and directed to pay a fine of ₹ 3,000/-.

The allegations against the petitioner are that a cheque issued by him for a sum of ₹ 14,75,214/- on 03.08.2012 had been dishonoured due to insufficient funds. Learned counsel for the petitioner has contended that the matter has been compromised and the petitioner has already paid a sum of

₹ 5 lacs to respondent No.2/complainant in full and final settlement.

Issue notice to the respondents.

Mr. Amardeep Singh Mann, Advocate, has put in appearance on behalf of respondent No.2/complainant and has filed power of attorney. He states that the matter has indeed been compromised and the complainant has received the demand draft of ₹ 5 lacs from the petitioner in full and final settlement. He also states that the complainant has no objection if offence is compounded in terms of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663.**

Learned counsel for the petitioner also contends that the petitioner has undergone sentence of more than two months and his financial condition is not sound as his company has suffered losses and has now closed down. The petitioner had exhausted all his resources for settling the matter and, therefore, the cost be reduced to a reasonable amount.

The petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881. As the dispute has been settled by the parties and a sum of ₹ 5 lacs has been paid to respondent No.2 towards the full and final settlement, it would be in the interest of justice, if the offence is compounded under Section 320(6) of the Cr.P.C. The liability under Section 138 of the Negotiable Instruments Act, 1881 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 and the judgments dated 12.02.2015 passed by the trial Court and dated 01.07.2019 passed by the Appellate Court, are set aside.

The petitioner is acquitted of the charges framed against him and he be released from custody in this case, if not required in any other case. The petitioner shall deposit ₹25,000/- as costs with the Punjab Legal Services Authority within a period of one week.

(ANUPINDER SINGH GREWAL)
JUDGE

September 06, 2019
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No

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