

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

127

CRR No.2093 of 2019 (O&M)

Date of decision : 28.08.2019

Kuldeep Singh

... Petitioner

Versus

HDFC Bank and another

.. Respondents

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Baljeet Beniwal, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

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 one year and directed to pay a compensation of ₹ 10 lacs to the complainant along with simple interest @ 9% p.a.

The allegations against the petitioner are that a cheque issued by him for a sum of Rs.10 lacs on 08.06.2016 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 ₹11,50,000/- to the respondent-Bank in full and final settlement towards his liability.

Issue notice of the respondent.

Mr. Saurabh Bhardwaj, Advocate, has put in appearance on behalf of respondent No.1/complainant and has filed power of attorney along with an affidavit dated 27.08.2019 of Sh. Raman Sharma, Legal Manager (Agri.), HDFC Bank Ltd., Regional Office, Chandigarh being authorized power of attorney-holder of the respondent/complainant. Learned counsel states that the matter has indeed been compromised and he 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 is a small farmer and his financial condition is not sound. The petitioner had exhausted all his finances 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 ₹11,50,000/- has been paid to the complainant-Bank 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 21.02.2018 passed by the trial Court and dated 01.08.2019 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 Haryana Legal Services Authority within a period of one week.

(ANUPINDER SINGH GREWAL)
JUDGE

August 28, 2019

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