

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

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**CRR-2106-2019 (O&M)
DATE OF DECISION: 29.08.2019**

JAGDISH KUMAR

... Petitioner(s)

Versus

RAJ KUMAR POSWAL

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. N.S. Shekhawat, Advocate
for the petitioner(s).

Mr. Ashish Gupta, Advocate for the respondent.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the judgments and order 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 simple imprisonment for a period of six months and to pay compensation of Rs.5,25,000/- to the complainant.

Learned counsel for the petitioner contends that the allegation against the petitioner is that the cheque issued on 23.07.2013 by the petitioner for an amount of Rs.3,50,000/- had been dishonoured due to insufficient funds. He further contends that the matter has been compromised with the complainant.

Issue notice to the respondent.

Mr. Ashish Gupta, Advocate has put in appearance on behalf of the complainant and states that the matter has indeed been compromised. Learned counsel for the petitioner has handed over a cheque of Rs. 5,25,000/- to the complainant who is present in Court and identified by his counsel. The complainant also states that the matter has now been settled.

Heard.

The offence under Section 138 of the Act is compoundable even at this stage in 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 paid Rs.5,25,000/- as compensation to the complainant, therefore, 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 of conviction and order of sentence dated 18.11.2016 & 28.11.2016 respectively passed by the trial Court and the judgment dated 19.08.2019 passed by the Appellate Court, are set aside. The petitioner is acquitted of the charges. The petitioner be released from custody if not required in any other case.

The petitioner is directed to deposit an amount of Rs.25,000/- as compensation with the District Legal Services Authority, Faridabad.

29.08.2019

SwarnjitS

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No