

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

CRR-2109-2019 (O&M)

Date of decision : 02.09.2019

Joy Mehra

.... Petitioner

Versus

J.C.T. Limited Filament Unit and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Jasraj Singh, Advocate
for the petitioner.

Mr. H.S. Randhawa, Advocate
for respondent No.1.

Mr. Dhruv Dayal, Sr. DAG, Punjab
for respondent No.2-State.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the judgment and the order of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.10,000/-, in default of payment of fine, to further undergo rigorous imprisonment for one month.

The allegation against the petitioner is that the cheque for an amount of Rs.50 lakh issued by him on 03.02.2014 was dishonoured due to insufficient funds. Learned counsel for the petitioner contends that without prejudice to the rights and contentions, the petitioner has settled the matter with the complainant and has handed over two cheques for a total sum of Rs.50 lakhs to the complainant.

Learned counsel for the complainant states that the matter has indeed been settled and the complainant has received the cheques in terms of the settlement 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 facing financial difficulty and his business has been shut down. He has arranged the cheque amount with great difficulty after borrowing the same from various sources including his relatives and, therefore, the cost be reduced to a reasonable amount.

Learned counsel appearing for the complainant states that the complainant is also present in Court and the matter has been compromised with the petitioner and he has received two demand drafts for a sum of Rs.50 lakhs in full and final settlement. He has 'no objection' if the offence is compounded.

The petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881. As the dispute has been settled by the parties and the demand drafts for a sum of Rs.50 lakhs has been paid to the complainant in 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.

In the event of cheques being dishonoured, liberty is granted to the complainant to prefer an application.

Consequently, the petition is allowed and the judgment dated 25.10.2016 passed by the trial Court and dated 19.07.2019 passed by the Appellate Court, are set aside. The petitioner is acquitted of the charges.

The petitioner shall deposit Rs.1 lakh as costs with the Punjab Legal Services Authority within a period of one week.

(ANUPINDER SINGH GREWAL)
JUDGE

02.09.2019

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No