

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

116

CRR No.2502 of 2019 (O&M)

Date of decision : 25.11.2019

Subegh Singh

... Petitioner

Versus

Surinder Kumar and another

.. Respondents

CORAM : HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present : Mr.L.S.Sidhu, Advocate
for the petitioner.
Mr.D.S.Sandhu, Advocate
for respondent No.1.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the orders of the trial Court and the Appellate Court, whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of 02 years and pay a fine of Rs.5000/-.

The allegations against the petitioner are that the cheque issued by him for a sum of Rs.2,86,800/- on 20.12.2013 had been dishonored due to insufficient funds.

Learned counsel for the petitioner contends that the matter has now been compromised and the cheque amount has been paid to the complainant. He has referred to the affidavit dated 20.11.2019 (Annexure A-1) attached with the application preferred by the petitioner for compounding of the offence. He has cited the judgment of the Supreme Court in case of **Damodar S.Prabhu vs. Satyed Babalal H., 2010 (5) SCC 663** and prayed for compounding of the offence. Learned counsel for the petitioner further contends that the petitioner has suffered heavy losses and is in precarious financial condition. He is in custody for almost

01 year and therefore cost be reduced.

Learned counsel appearing for the complainant states that the complainant is also present in the Court and the matter has been compromised with the petitioner and he has received the cheque amount 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 cheque amount 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.

Consequently, the petition is allowed and the judgments dated 02.03.2017 passed by the trial Court and dated 08.08.2019 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 Rs.10,000/- as costs with the Punjab Legal Services Authority within a period of one week.

[ANUPINDER SINGH GREWAL]
JUDGE

25.11.2019

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SUDHIR KUMAR
2019.11.25 17:48
I attest to the accuracy and
authenticity of this document.
High Court, Chandigarh

Whether speaking/reasoned
Whether Reportable

: Yes/No
: Yes/No