

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

115

CRR No.2361 of 2019 (O&M)

Date of decision : 16.09.2019

Rajesh Kakkar

... Petitioner

Versus

State of Haryana and another

.. Respondents

CORAM :HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Deepak Girotra, Advocate for the petitioner.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the judgments and orders of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') and sentenced to undergo rigorous imprisonment for one year and directed to pay compensation of ₹ 15,20,000/- to the complainant.

The allegations against the petitioner are that one cheque issued by him for a sum of ₹ 15 lacs on 17.12.2012 was dishonoured. Learned counsel for the petitioner has contended that the matter has been compromised and has referred to a copy of the deed of compromise which is annexed as Annexure A-1. He prays for compounding of the offence in terms of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663.**

Issue notice to the respondent.

Mr. Aman Pal, 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 he has no objection if offence is compounded in terms of the judgment of the Supreme Court in case of

Damodar S. Prabhu (supra).

Learned counsel for the petitioner also contends that the financial condition of the petitioner is not sound and he has exhausted all his resources in arranging the amount which has been paid to the complainant towards the compromise. The business of the petitioner has also suffered losses and, therefore, the cost be reduced.

The petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881. As the dispute has been settled by the parties, 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 31.03.2016/02.04.2016 passed by the trial Court and the Appellate Court on 30.08.2019, 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 ₹ 30,000/- costs with the Haryana Legal Services Authority within a period of one month.

(ANUPINDER SINGH GREWAL)
JUDGE

September 16, 2019
sonia gugnani

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