

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

CRR No. 2530 of 2019 (O&M)

Date of decision: 16.11.2019.

Vijay Kumar

..... Petitioner.

Versus

Chand Kumar and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Nonish Kumar, Advocate, for the petitioner.

Mr. Amit, Advocate, for respondent No. 1.

ANUPINDER SINGH GREWAL, J. (ORAL)

CRM No. 35668 of 2019

This application is for placing on record compromise deed and the affidavit of the complainant.

Issue notice to the non-applicants/respondents.

Mr. Amit, Advocate, has put in appearance on behalf of non-applicant/respondent No. 1 and filed 'vakalatnama', which is taken on record. He states that the matter has indeed been compromised between the parties and he has 'no objection' in case the application is allowed.

Consequently, the application is allowed and the aforementioned documents are taken on record as Annexures A1 and A2, respectively, subject to all just exceptions.

CRR No. 2530 of 2019 (O&M)

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 ('NI Act' - for short) and has been sentenced to undergo rigorous imprisonment for a period of one year and to pay compensation to the tune of ₹2,60,000/-.

The allegations in the complaint against the petitioner are that the cheque issued by him for a sum of ₹2,50,000/- on 12.02.2015 was dishonoured due to 'insufficient funds'.

Learned counsel for the petitioner contends that the matter has now been compromised between the parties. He has referred to the copy of the compromise and the affidavit of the complainant in this regard at Annexures A1 and A2, respectively. He also prays that in view of the judgment of the Supreme Court in the case of Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663, the matter may be compounded. He also contends that the petitioner has suffered heavy loss and has exhausted all his financial resources in arranging the amount which has been paid to respondent No. 1 (complainant) towards full and final settlement of the dispute and, therefore, costs be reduced.

Issue notice to the respondents.

Mr. Amit, Advocate, has put in appearance on behalf of non-respondent No. 1 (complainant). He states that the matter has indeed been compromised between the parties in terms of compromise Annexure P1. He also states that respondent No.1 (complainant) has 'no objection' if the offence is compounded in terms of the judgment in Damodar S. Prabhu's case (supra).

The petitioner has been convicted under Section 138 of the NI

Act. As the dispute has been settled by the parties in terms of the compromise Annexure A1, it would be in the interest of justice if the offence is compounded under Section 320 (6) of the Code of Criminal Procedure, 1973. The liability under Section 138 of the NI 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 offence under Section 138 of the NI Act is compounded and the judgment and order dated 29.02.2016 passed by the trial Court as well as the judgment dated 02.08.2019 passed by the Lower Appellate Court are set aside. The petitioner is acquitted of the charges framed against him. He be released forthwith if not required in any other case.

However, the petitioner shall deposit a sum of ₹10,000/- as costs with the Haryana State Legal Services Authority within a period of one week.

(ANUPINDER SINGH GREWAL)
JUDGE

16.11.2019
Ramesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No