

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

CRM-3443-2019 in/and
CRR No.4800 of 2017 (O&M)
Date of Decision: 29.05.2019

Akhilesh Sharma

.....Petitioner

Versus

Rishi Sharma

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Amit Kumar, Advocate
for the applicant-petitioner.

Mr. A.S. Togria, Advocate
for the respondent-complainant.

MANJARI NEHRU KAUL, J. (Oral)

The present revision petition has been filed by the petitioner against the order dated 14.12.2017, passed by the learned Addl. Sessions Judge, Panchkula, vide which, impugned judgment of conviction and order of sentence dated 11.12.2015/16.12.2015, passed by the learned CJM, Panchkula, convicting the petitioner for commission of offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo R.I. for a period of one year alongwith compensation of Rs.3,10,000/-, has been upheld.

Learned counsel for the petitioner contends that in pursuance to the compromise effected between the parties, a cheque bearing No. 000005,

dated 29.05.2019, in the sum of Rs.2,50,000/-, has been handed over to the learned counsel for the respondent-complainant, Mr. A.S. Togria, Advocate, who further handed over the same to the complainant/respondent – Rishi Sharma, who is present in Court and has been identified by his counsel as well. Photocopy of the cheque taken on record. Now the matter stands finally settled between the parties. Learned counsel for the petitioner further submitted that in pursuance to the order dated 15.03.2019, an amount of Rs.30,000/- has also been deposited with the Haryana State Legal Services Authority.

The learned counsel appearing for the respondent-complainant also admits the factum of receipt of the entire payment. The counsel for respondent has no objection if the impugned judgments of conviction and sentence are set aside.

In view of the matter, the application i.e. CRM-3443-2019 is disposed of and main petition is taken up on Board today itself.

I have heard learned counsel for the parties.

In **Damodar S.Prabhu vs. Sayed Babalal, JT 2010 (4) SC 457**, the Full Bench of Hon'ble Supreme Court has issued the following guidelines in cheque bouncing cases:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to

the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

In view of the judgment of the Apex Court in **Damodar S. Prabhu Vs. Sayed Babalal H., 2010 (2) RCR (Crl.) 851**, the matter can be compounded at the stage of pendency of the proceedings before the High

Court.

Considering the above circumstances, the offence under Section 138 of the Negotiable Instruments Act is compounded.

Keeping in view the fact that the matter has been finally settled, the liability is discharged; the present petition is allowed; judgment of conviction and order of sentence dated 11.12.2015/16.12.2015, passed by the learned CJM, Panchkula and judgment dated 14.12.2017, passed by the learned Addl. Sessions Judge, Panchkula, confirming the conviction and sentence of the accused-petitioner, are set aside. The present revision is allowed and the petitioner is acquitted on the basis of compromise so arrived at between the parties.

(MANJARI NEHRU KAUL)
JUDGE

29.05.2019

"J. Ram"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No