

Crl. Revision No. 5026 of 2018(O&M)
Date of Decision: February 22, 2019

Jitesh Vohra

.....Petitioner

versus

Deepak Chadha

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Gurneet Sagoo, Advocate
for the petitioner

Mr. Karan Dev Sharma, Advocate
for the respondent

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Sudhir Mittal, J. (Oral)

Pursuant to order dated 15.12.2018 the petitioner has deposited Rs. 75,000/- i.e. 15% of the cheque amount in favour of the High Legal Services Committee, Chandigarh.

Vide impugned judgment of conviction and order of sentence dated 20.02.2017 passed by the Judicial Magistrate Ist Class, Jalandhar, the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and was sentenced to undergo rigorous imprisonment for two years and to pay compensation to the respondent to the tune of the cheque amount alongwith interest @ 9 % p.a. from the date of issuance of cheque amount till the date of judgment, under Section 357(3) of the Code of Criminal Procedure, 1973 (for the short 'the Code') . Aggrieved against the judgment of conviction and order of sentence, the petitioner preferred an appeal and vide impugned judgment dated 27.11.2018, the same was dismissed and the petitioner was taken into custody and sent to jail for undergoing the sentence. Hence, the revision petition before this Court.

Notice of motion was issued inasmuch as learned counsel for the petitioner submitted that the latter had already paid the cheque amount to the respondent pursuant to the compromise (Annexure P-1) effected between them and that he may be allowed to compound the offence.

The offence under Section 138 of the Act is compoundable under Section 147 of the Act and effect of such composition is an acquittal under Section 320(8) of the Code. The factum of compromise and receipt of cheque amount in dispute have been admitted by learned counsel for the respondent – complainant.

In view of the ratio of the judgment of the Hon'ble Supreme Court in ***Damodar S. Prabhu vs. Sayed Babalal, 2010(5) SCC 663***, the petitioner has also deposited 15% of the cheque amount as penalty and as such he is permitted to compound the offence at the revisional stage, as per provisions of Section 320(6) of the Code.

In view of the above, instant revision petition is allowed; impugned judgment of conviction and order of sentence dated 20.02.2017 passed by the Judicial Magistrate Ist Class, Jalandhar, and as upheld by the Additional Sessions Judge, Jalandhar, vide judgment dated 27.11.2018, is set aside and the petitioner is acquitted.

Copy of this order be sent to the Court/Successor Court of the Convicting Magistrate concerned, for information and compliance.

February 22, 2019

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No