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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.REV.P. 338/2018 and Crl.M.(B) No.630/2018**

Date of Decision: 18.12.2019

IN THE MATTER OF:

SURAJ MAURYA Petitioner

Through: Mr. Atul Kharbanda, Advocate.

versus

SAMEER VERMA & ANR Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

MANOJ KUMAR OHRI , J. (ORAL)

1. The present revision petition has been filed under Section 397/401 read with Section 482 Cr.P.C. on behalf of the petitioner seeking setting aside the impugned judgment on conviction dated 02.08.2017 and order on sentence dated 16.09.2017 passed by the Metropolitan Magistrate in Complaint Case No.4991510/2016 whereby the petitioner was convicted for the offence under Section 138 N.I. Act and sentenced to undergo simple imprisonment for a period of six months and to pay a compensation of Rs.2,10,000/- along with litigation expenses of Rs.40,000/- to the complainant and in default of payment of compensation, he was further directed to undergo simple imprisonment for a further period of six months.

Feeling aggrieved with the aforesaid judgment and order on sentence, the petitioner preferred an appeal before the Sessions Court and vide judgment dated 13.03.2018 passed by the Special Judge (PC Act), CBI-01, Dwarka Courts, Delhi in CA No.351/2017, the appeal filed by the petitioner was dismissed.

2. Brief facts, as noted in the impugned judgment, are as follows:

"2. It is averred in the complaint that an agreement cum bayana receipt (Ex.CW1/1) was executed between accused and the complainant on 26.05.2005 whereby the accused agreed to sell property bearing no. BE-170, Hari Nagar, New Delhi to the complainant for a consideration of Rs.5,10,000/- out of which sum of Rs.2,10,000/- was paid by the complainant on 26.05.2005 in cash to the accused as earnest money. It is further averred in the complaint that the balance was payable on or before 10.10.2005 subject to the transfer of the title of the above said property in the favour of the complainant along with actual, peaceful, physical and vacant possession of the shop and the remaining built up portion in the said property. It is further stated that the accused failed to hand over the possession and assured the complainant to complete the deal at the earliest or otherwise to return the money to the complainant with the compensation as agreed i.e. the double of the earnest amount paid. It is further averred that ultimately with the intervention of some common friends, the dispute was amicably resolved and as per the settlement accused handed over a cheque bearing no.355901 dated 14.06.2006 for an amount of Rs.2,10,000/- drawn on Kangara Cooperative Bank Ltd. (Ex.CW1/2) towards the discharge of the loan liability. It is further averred that the cheque in question was presented for encashment which got dishonoured on 27.06.2006 with remarks "funds insufficient" (Ex.CW1/3). Further, the Complainant also sent a legal demand notice dated 15.07.2006 to the accused (Ex.CW1/4). Upon the failure of the accused to make the payment within 15 days, after the service of legal demand notice, the present complaint was filed".

3. During the pendency of the revision petition, on the request of the parties, they were referred to the Delhi High Court Mediation and

Conciliation Centre to explore the possibility of an amicable settlement of their dispute.

4. Learned counsel for the parties submit that the parties have arrived at an amicable settlement of their dispute before the "*Delhi High Court Mediation and Conciliation Centre*" vide Settlement Agreement dated 19.09.2019.

5. Learned counsel for respondent No. 2 submits that in terms of the Settlement Agreement, entire settled amount of Rs.2,10,000/- has been received by respondent No.2/complainant.

6. Learned counsel for the petitioner submits that the petitioner is a poor person and is the only bread earner in the family.

7. Learned counsel for the petitioner has relied upon the decision of the Supreme Court in the case of Damodar S.Prabhu v. Sayed Babalal H. reported as **(2010) 5 Supreme Court Cases 663** and prayed that the cost @ 15% be reduced.

8. In view of the settlement arrived at between the parties, the offence under Section 138 of the NI Act against the petitioner is permitted to be compounded, subject to payment of costs of Rs.5,000/- to be deposited by the petitioner with the "*Delhi High Court Legal Services Committee*" within a period of eight weeks from the date of this order. The petitioner stands acquitted.

9. Proof of deposit of costs be filed in the Court.

10. The petition is disposed of along with the pending application.

DASTI.

(MANOJ KUMAR OHRI)

JUDGE

DECEMBER 18, 2019
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