

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CRL.REV.P. 705/2016

Date of Decision: 04.12.2019

IN THE MATTER OF:

SANTOSH RAWAT

..... Petitioner

Through: Mr. B. N. Sharma, Mr. Summinder
Paswan and Mr. V. P. Singh, Advocates.

Versus

STATE & ORS

..... Respondents

Through: Ms. Radhika Kolluru, APP for R-1/State.
Mr. D. D. Tripathi, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

MANOJ KUMAR OHRI, J. (ORAL)

1. The present revision petition has been filed for setting aside the impugned judgment dated 26.10.2016 passed by the learned Special Judge (P. C. Act), CBI-03, Dwarka Courts, New Delhi whereby the appeal filed by the petitioner challenging the judgment dated 19.09.2015 and the order on sentence dated 07.10.2015 was dismissed and the petitioner was held

guilty for the offence punishable under Section 138 of the N. I. Act, 1881 and was sentenced to undergo SI for a period of one year alongwith compensation of Rs.7,00,000/- and in default of payment of compensation, the petitioner was to undergo SI for three months.

2. The brief facts as noted in the impugned judgment are as follows:-

“.....respondent/complainant had filed one complaint U/s 138 NI Act. In the said complaint, it was alleged that respondent and appellant were living in the same locality and were having friendly relations since long time. It was further alleged that in the month of January 2014, the appellant had requested the respondent for loan of Rs. 10 lacs for opening of an institute in Dholpur, Rajasthan. Thereafter in the same month, complainant/respondent had advanced Rs. 7 lacs to the appellant and against the said loans two cheques of Rs. 4lacs and Rs.3lacs both dated 20.09.2014 were issued by the appellant. On presentation, both the cheques were dishonoured due to reason, insufficient funds. Thereafter legal notice dated 09.12.2014 was issued to the appellant on 11.12.2014. However, despite receipt of the said notice, payment was not made. Accordingly, complaint was filed”.

3. Both the parties submit and acknowledge that Rs.3,00,000/- has already been paid during the pendency of this revision petition.

4. Learned counsel for the petitioner submits that an affidavit/undertaking has been filed on behalf of the petitioner where he has undertaken to pay remaining Rs.7,00,000/- in terms of settlement agreement.

5. Parties present in person submit that they are bound by the statement made before the Court today and the settlement agreement entered into.

6. 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.**

7. 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.1,50,000/- 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.

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

9. In view of above, the petition is disposed of.

Crl. M.A. 40005/2019

1. The present application has been moved seeking release of amount of Rs.3,50,000/- deposited by the petitioner in pursuance to order dated 27.10.2016 at the time of suspension of sentence.

2. Learned counsel for the petitioner, on instructions from the petitioner, submits that he has no objection, if the said amount is released to respondent which is towards part payment of the settlement.

3. List before the Registrar (Appellate) for the aforesaid purpose on 11th December, 2019.

(MANOJ KUMAR OHRI)
JUDGE

DECEMBER 04, 2019/ssc

Crl. Rev. P. 705/2016

Page 3 of 3