IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. Revision No. 93 of 2019

Date of Decision 3rd January, 2020

Hari Ram ***….Petitioner***

Versus

Karam Singh & another ***….Respondents***

Coram

The Hon'ble Mr. Justice Vivek Singh Thakur, J.

Whether approved for reporting?[1]

For the Petitioner:	Ms. Kirti Sood, Advocate vice Mr.Digvijay Singh, Advocate. Petitioner Hari Ram is present in person.
For the Respondents:	Mr.H.S. Rangra, Advocate, for respondent No.1.
	Mr.S.C.Sharma Additional Advocate General with Mr.Kamal Kant and Ms.Seema Sharma, Deputy Advocates General, for respondent No.2.

Vivek Singh Thakur, J.(oral)

Present revision petition has been filed assailing judgment dated 21.01.2019, passed by learned Additional

[1] ***Whether Reporters of Local Papers may be allowed to see the judgment? Yes***

Sessions Judge-II, Mandi H.P., in Cr. Appeal No. 12 of 2017, whereby judgment/order dated 30/31.5.2017 passed by learned Judicial Magistrate 1st Class, Chachiot at Gohar, District Mandi, in Criminal Case No. 107-1/2016/43-III/2016, convicting and sentencing the petitioner/accused to undergo simple imprisonment for a period of three months and to pay compensation of Rs.90,000/- to the complainant, has been affirmed.

2 Accused/petitioner Hari Ram, present in person and is duly identified by his counsel, has stated on oath that he has paid entire compensation amount except Rs.5500/- to respondent No.1/complainant and the said remaining amount of Rs.5500/- shall be paid by him to respondent/complainant on or before 15.1.2020, by remitting the same in his bank account being supplied by his counsel. He has also undertaken to deposit compounding fee of Rs.2500/- with HP State Legal Services Authority, Shimla HP on or before 25.2.2020 and according to him, respondent/complainant has agreed for compounding of the case and has also stated that he has deposed in Court out of his free will, consent and also without any fear, threat, pressure or coercion.

3 Separate statement of learned counsel for the respondent/complainant, has also been recorded, whereby he has endorsed the statement made by accused and compromise arrived at between the parties and has further stated that according to instructions imported to him by respondent, in case amount of Rs.34,500/- deposited by petitioner in the trial Court is ordered to be released in favour of the respondent, by remitting the same in his bank account, respondent has agreed to compound the case. He has further stated that he has deposed in the Court strictly in accordance with instructions imparted to him by respondent.

4. Consequently, respondent/complainant is permitted to withdraw the complaint and matter is compounded and complaint arising out of dishonour of cheque under Section 138 of Negotiable Instrument Act is treated to be withdrawn and judgments of conviction and sentence passed by learned Courts below are quashed and set aside. Petitioner/accused is acquitted of the accusation framed against him.

5. Petitioner has also prayed for imposing lesser amount of compounding fee instead of 15% of cheque amount. It is submitted by learned counsel for the petitioner that considering the ratio of law laid down by the Apex Court in

Damodar S.Prabhu vs. Sayed Babalal H. (2010)5 SCC 663, the Apex Court in ***Madhya Pradesh Legal Services Authority vs. Prateek Jain and another (2014)10 SCC 690,*** wherein it has been held that Court may reduce compounding fee for given facts and circumstances of a particular case, present case is a fit case for reduction of compounding fee.

6. Considering facts and circumstances of the case, I am of the opinion that it is an appropriate case to impose lesser compounding fee. Therefore, petitioner is directed to deposit compounding fee of Rs. 2500/- instead of 15% of cheque amount, with the H.P. State Legal Services Authority, Shimla on or before 25th February, 2020.

7. After depositing compounding fee/cost, petitioner shall place copy of receipt of deposit on record of this petition. In case of default in depositing compounding fee/cost with H.P. State Legal Services Authority, Shimla within stipulated period, the judgments of conviction and sentence shall automatically revive.

8 Trial Court is also directed to release the amount of Rs.34,500/-, deposited by petitioner, along with up-to-date interest, if any, accrued thereupon, in favour of respondent/ complainant, by remitting the same in his Bank Account

No.32810103031, HP State Cooperative Bank Ltd., Mandi, immediately on production of this judgment, without giving any notice to petitioner Hari Ram.

9 With regard to remaining Rs.5500/-, referred supra, petitioner/accused Hari Ram is directed to pay the said amount to the respondent/complainant on or before 15.1.2020 by remitting the same in his Bank Account No.32810103031 in HP State Cooperative Bank Ltd., Mandi, failing which judgment of conviction and sentence imposed upon petitioner shall revive.

10. Petition stands disposed of, in the aforesaid terms, so also the pending application(s), if any. Copy of this judgment be also sent to H.P. State Lagal Services Authority, Shimla.

January 03, 2020 **(Vivek SinghThakur),**
ms **Judge**