

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-956-2020 (O&M)
Date of Decision:-17.2.2020

M/s New Shiv Gange Timber and another ... Petitioners

Versus

M/s Uttam Associates and another ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Karan Singh, Advocate for the petitioners.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioners seek quashing of Criminal Complaint No.3405 dated 14.6.2011 titled as 'M/s Uttam Associates Vs. M/s New Shiv Gange Timber & another' and also judgment dated 5.8.2014 (Annexure P-2) vide which the petitioner was held guilty by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri for having committed an offence punishable under Section 138 of Negotiable Instruments Act and also order dated 6.12.2014 (Annexure P-4) passed by learned Additional Sessions Judge in the capacity of Presiding Officer, National Lok Adalat, Yamuna Nagar at Jagadhri, wherein the conditional order was to the effect that the judgment of conviction would stand set aside in case the petitioner pays the agreed amount of ₹1.5 lakhs upto 6.2.2015, failing which his appeal shall stand dismissed.
2. However, since the aforesaid amount of ₹1.5 lakhs was not paid by the petitioner, the learned Judicial Magistrate 1st Class, Yamuna Nagar at

Jagadhri vide order dated 15.11.2019, while noticing the aforesaid factual position, ordered for arrest of the petitioner so as to undergo remaining sentence.

3. The learned counsel for the petitioners has submitted that it was on account of extreme financial hardship that the petitioner could not pay the agreed amount and that with great difficulty the petitioner has been able to collect an amount of ₹1.35 lakhs, which he has paid to the complainant and who, keeping in view the financial constraints of the petitioner, has accepted the said amount of ₹1.35 lakhs as against the settled amount of ₹1.5 lakhs.
4. Mr. Rahul Singla, Advocate has today put in appearance on behalf of respondent No.1/complainant and has filed power of attorney, which is taken on record. He has admitted that respondent No.1/complainant has received an amount of ₹1.35 lakhs from the petitioner towards full and final settlement of all the dues and that the matter stands fully and finally compromised amongst the parties and he does not have any objection for acquittal of the petitioners.
5. Keeping in view the aforestated facts and circumstances and also the fact that the petitioner genuinely appears to be in some kind of financial constraints on account of which the complainant has agreed to accept an amount of ₹1.35 lakhs instead of ₹1.5 lakhs as was ordered in the year 2014, the petition is accepted and Criminal Complaint No.3405 dated 14.6.2011 titled as 'M/s Uttam Associates Vs. M/s New Shiv Gange Timber & another' and also judgment dated 5.8.2014 (Annexure P-2) vide which the petitioner was held guilty by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri for having committed an offence punishable under Section 138 of

Negotiable Instruments Act and also order dated 6.12.2014 (Annexure P-4) passed by learned Additional Sessions Judge in the capacity of Presiding Officer, National Lok Adalat, Yamuna Nagar at Jagadhri are hereby set aside and the petitioner is ordered to be acquitted.

6. However, the petitioner shall be released only after he deposits an amount equivalent to 15% of the cheque amount with the Secretary, District Legal Services Authority, Yamuna Nagar at Jagadhari in accordance with dictum of Hon'ble the Supreme Court in Damodar S. Prabhu Vs. Sayed Babalal H. (2010) 5 SCC 663.
7. It is, however, made clear that in case the aforesaid amount is not deposited withing a period of one month from today, the aforesaid order of acquittal shall cease to operate.

17.2.2020

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether reasoned/speaking

Yes / No

Whether reportable

Yes / No