

219

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRA-S No.2613-SB of 2014
Date of Decision: 03.02.2020**

SATISH CHAND

.....Appellant

Vs

SURENDER SINGH

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. C.B. Goel, Advocate
for the appellant.

Mr. Jagjeet Beniwal, Advocate
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

[1]. This appeal has been preferred against the judgment of conviction dated 02.06.2014 passed by the Sessions Judge, Palwal thereby reversing the judgment of acquittal dated 27.04.2013 passed by the Judicial Magistrate Ist Class, Hodal.

[2]. The appeal was admitted on 09.06.2014. Thereafter, vide order dated 18.06.2014, the imprisonment imposed upon the appellant was suspended and recovery of fine was also stayed.

[3]. A complaint under Section 138 of the Negotiable Instruments Act came to be filed on account of dishonouring of

cheque Nos.1814574 and 1814575 in a sum of Rs.75,000/- each.

[4]. During pendency of the present appeal, both the parties have settled their dispute. Now an amount of Rs.1,50,000/- has been paid in cash by appellant-Satish Chand in favour of the respondent-Surender Singh.

[5]. Factum of aforesaid payment has been admitted by learned counsel for the respondent.

[6]. A notarized copy of understanding/compromise dated 29.01.2020 has been filed in Court. The same is taken on record.

[7]. This appeal has to be decided in terms of compromise for which respondent has no objection, as with the payment of Rs.1,50,000/- nothing is due towards the appellant.

[8]. Learned counsel for the appellant by relying upon **Cochin Hotels Co.(P) Ltd. and others vs. Kairali Granites and others, 2006(2) RCR (Criminal) 333 and K. Subramanian vs. R. Rajathi represented by POAP Kaliappan, 2010 (1) RCR (Criminal) 184** submitted that even after finalization of judgment of conviction and order of sentence, appellant can resort to compounding mechanism in terms of Section 147 of Negotiable Instruments Act as the offence related to dishonouring of cheque is having compensatory profile and it

should be given precedence over punitive mechanism. Offence is almost a civil wrong which has been clothed in a criminal overtone, therefore, the priority should be given to compensatory mechanism.

[9]. Learned counsel also by relying upon **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010(SC) 1097** and **Kaushalya Devi Massand vs. Roopkishore, 2011(2) RCR (Criminal) 298** submitted that the compromise in question would definitely go in long way to strengthen the mutual relationship between the parties and would serve as an ever lasting tool in their favour. This exercise would be in consonance with the spirit of Section 147 of the Negotiable Instruments Act as endorsed in **Damodar S. Prabhu's** case (supra).

[10]. Section 147 of the Negotiable Instruments Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in *stricto sensu*, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the

trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court. The Court in a given case can reduce the costs as regards the specific facts involved therein, of course reasons are to be recorded for such a variance.

[11]. In the present case, taking into consideration the time and the manner in which the litigation was fought, I am of the view that 15% of the cheque amount towards cost(s) of litigation can be waived off in the interest of justice.

[12]. In view of above, the present appeal is allowed in terms of the compromise. Impugned judgment of conviction dated 02.06.2014 passed by the Sessions Judge, Palwal is hereby set aside. Normal consequences to follow.

February 03, 2020

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No