

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

106

CRR-490-2020 (O&M).

Date of Decision: 03.03.2020.

Amrik Singh

....Petitioner.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Munish Garg, Advocate for the petitioner.

Mr. Harpreet Singh Multani, Asst. Advocate General, Punjab
for respondent No.1.

Mr. Yashveer Kharb, Advocate for respondent No.2.

Lalit Batra, J.(Oral)

CRM-7990-2020

The petitioner-accused has filed present application under Section 147 of Negotiable Instruments Act (for short, 'N.I. Act') read with Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') for compounding of offence on the ground that matter has been settled between the parties.

Briefly stated the facts giving rise to filing of present application are that respondent No.2 filed Complaint No.COMA/963/2015 titled as 'Renu Bala Vs. Amrik Singh' on the ground of dishonour of cheque No.391689 dated 21.07.2015 of ₹90,000/- issued by petitioner-accused in discharge of subsisting legal liability with remarks “Funds Insufficient” and non-payment of the amount of cheque by petitioner-accused within 15 days

sentence both dated 02.02.2018, petitioner-accused was convicted under Section 138 of N.I. Act and was sentenced to undergo simple imprisonment for a period of four months and to pay amount of ₹90,000/- (cheque amount) to complainant. The appeal filed by petitioner-accused was dismissed by learned Additional Sessions Judge, Patiala vide judgment dated 06.02.2020. During pendency of revision petition, parties have compromised and petitioner-accused has filed present application for grant of permission to compound the offence.

The application has been filed on the grounds that now the matter has been settled between the parties. Respondent No.2-complainant (Renu Bala) has received entire cheque amount from petitioner-accused and has no objection in case petitioner-accused is acquitted of the offence under Section 138 of N.I. Act. The petitioner-accused has accordingly prayed for grant of permission to compound the said offence.

Notice of the application was given to respondent No.1-State as well as respondent No.2-complainant.

Learned counsel for respondent No.2-complainant has given concurrence to the factum of compromise (Annexure P/3) as arrived at between the parties and further submits that agreed amount in terms of compromise has already been received by respondent No.2-complainant from petitioner. He further submits that respondent No.2-complainant has no objection in case petitioner/accused is acquitted of the offence under Section 138 of N.I. Act.

Learned State counsel has submitted that respondent No.1-State has no objection in case permission to enter into compromise is granted.

Offence under Section 138 of N.I. Act is compoundable under Section 147 of N.I. Act.

In **JK Industries Limited and others Vs. Amarlal Vs. Jumani and another, 2012(1) R.C.R. (Criminal) 822** it was held by Hon'ble Supreme Court that the basis procedure of compounding an offence laid down in Section 320 Cr.P.C. will apply to compounding of an offence under Section 147 of N.I. Act.

Section 320(6) Cr.P.C. empowers the High Court acting in exercise of its powers of revision under Section 401 Cr.P.C. to allow any person to compound any offence which such person is competent to compound under Section 320 Cr.P.C.

Petitioner and respondent No.2 (complainant) have compromised and settled the dispute between them.

In **Damodar S. Prabhu Vs. Sayed Babalal H., 2010(5) SCC 663**, Hon'ble Supreme Court observed that if the application for compounding the offence is made before the High Court in revision petition, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of cost.

In view of judgment of Hon'ble Supreme Court in **Damodar S. Prabhu's** case (supra), vide order dated 02.03.2020 passed by this Court, petitioner was directed to deposit costs of ₹13,500/- i.e. 15% of the cheque amount before High Court Legal Services Committee, Chandigarh and in compliance of that order, costs of ₹13,500/- has been deposited and receipt in this regard has been placed on record.

I have heard learned counsel for petitioner-accused, learned

State counsel and learned counsel for respondent No.2-complainant and

gone through relevant record.

The petitioner-accused and respondent No.2-complainant have compromised and settled the dispute between them. Respondent No.2-complainant has already received the cheque amount from petitioner-accused and costs of ₹13,500/-, as detailed above, has also been deposited. Compromise will restore cordial relations between the parties and will also contribute to peace and harmony in the society. Therefore, application is allowed and permission to compound the offence is granted.

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Compromise deed entered into between the parties, which has already been placed on record, is accepted.

In view of compromise, as detailed above, petitioner-accused is acquitted of the offence punishable under Section 138 of N.I. Act and resultantly judgment dated 06.02.2020 passed in appeal by learned Additional Sessions Judge, Patiala and judgment of conviction and order of sentence both dated 02.02.2018 passed by learned Judicial Magistrate Ist Class, Nabha, are set aside. Petitioner-accused be released from custody forthwith if not required in any other case.

Revision petition is allowed accordingly.

Since the main petition itself has been decided, criminal miscellaneous, if any, stands disposed of accordingly.

(LALIT BATRA)
JUDGE

03.03.2020

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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No