

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

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CRR-529-2020 (O&M).

Date of Decision: 16.03.2020.

Nirbhai Singh

....Petitioner.

Versus

Gurpreet Singh

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms. Manpreet Ghuman, Advocate for the petitioner.

Mr. Sham Lal Bhalla, Advocate for the respondent.

Lalit Batra, J.(Oral)

CRM-7455-2020

The petitioner-accused has filed this application under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') read with Section 147 of Negotiable Instruments Act (for short, 'N.I. Act') for setting aside/quashing of impugned judgment of conviction and order of sentence both dated 27.05.2019 passed by learned Judicial Magistrate Ist Class, Barnala and judgment dated 28.01.2020 passed by Appellate Court affirming the conviction and sentence of applicant/petitioner under Section 138 of Negotiable Instruments Act, on the basis of compromise dated 20.02.2020 (Annexure A/1) arrived at between the parties.

Briefly stated the facts giving rise to filing of present application are that respondent filed Complaint No.COMA/400/2015 titled as 'Gurpreet Singh Vs. Nirbhai Singh' on the ground of dishonour of cheque No.697002 dated 12.08.2015 of ₹4,00,000/- 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 from receipt of legal notice. Vide judgment of conviction and order of sentence both dated 27.05.2019, petitioner-accused was convicted under Section 138 of N.I. Act and was sentenced to undergo rigorous imprisonment for a period of two years and to pay amount of ₹4,00,000/- (cheque amount) to complainant. The appeal filed by petitioner-accused was dismissed by learned Sessions Judge, Barnala vide judgment dated 28.01.2020. 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-complainant has been compensated in the manner that in view of cheque amount of ₹4,00,000/-, Amarjit Kaur-mother of petitioner has executed registered sale deed dated 20.02.2020 qua her house ad-measuring five Marlas favouring Veerpal Kaur, wife of respondent/complainant and respondent-complainant 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 the respondent-complainant.

Learned counsel for respondent-complainant has given concurrence to the factum of compromise dated 20.02.2020 (Annexure A/1) as arrived at between the parties and further submits that respondent-

amount of ₹4,00,000/-, Amarjit Kaur-mother of petitioner has executed registered sale deed dated 20.02.2020 qua her house ad-measuring five Marlas favouring Veerpal Kaur, wife of respondent/complainant. He further submits that respondent-complainant has no objection in case petitioner/accused is acquitted of the offence under Section 138 of N.I. Act.

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

In **JIK Industries Limited and others Vs. Amarlal V. Jumani and another, 2012(1) R.C.R. (Criminal) 822** it was held by Hon'ble Supreme Court that the basic 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 (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 13.03.2020 passed by this Court, petitioner was directed to deposit costs of ₹60,000/- i.e. 15% of the cheque

amount before High Court Legal Services Committee, Chandigarh and in compliance of that order, costs of ₹60,000/- has been deposited and receipt in this regard has been placed on record.

I have heard learned counsel for petitioner-accused and learned counsel for respondent-complainant and gone through relevant record.

The petitioner-accused and respondent-complainant have compromised and settled the dispute between them. Respondent-complainant has been compensated in the manner that in view of cheque amount of ₹4,00,000/-, Amarjit Kaur-mother of petitioner has executed registered sale deed dated 20.02.2020 qua her house ad-measuring five Marlas favouring Veerpal Kaur, wife of respondent/complainant and costs of ₹60,000/-, 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 28.01.2020 passed in appeal by Appellate Court and judgment of conviction and order of sentence both dated 27.05.2019 passed by learned Judicial Magistrate Ist Class, Barnala, 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

16.03.2020
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No