

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-926-2020 (O&M)
Date of decision-29.10.2020

Harish Kumar

....Petitioner

Vs.

Naresh Kumar and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vinod S.Bhardwaj, Advocate for the petitioner.

Mr. S.S.Khurana, Advocate for respondent No.1.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J.

CRM-25657-2020

This is an application for seeking permission for allowing the petitioner to compound the offence under Section 147 of Negotiable Instruments Act, 1881 read with Section 482 Cr.P.C and for placing on record compromise (Annexure A-1).

Application is allowed as prayed for.

Annexure A-1 is taken on record.

Main case

Through this revision petition, the convict has challenged the Appellate Court order dated 17.02.2020 whereby the appeal against the judgment of conviction and order of sentence dated 08/12.10.2015, passed by Sub Divisional Magistrate, Kosli convicting the petitioner under Section 138 Negotiable Instruments Act, 1881 was dismissed. The trial Court had imposed the sentence of simple imprisonment for a period of one year and further directed the convict to pay Rs.500,000/- as

The facts in brief leading to the above revision petition are as under:-

Complainant-Naresh Kumar brought a criminal complaint under Section 138 Negotiable Instruments Act, 1881 against accused/petitioner-Harish Kumar, wherein it was alleged that complainant had advanced a friendly loan of Rs.4,30,000/- on 21.08.2009, to the petitioner. A cheque bearing No.330455 dated 27.05.2011 was issued by petitioner in favour of the complainant for a sum of Rs.4,30,000/- drawn at State Bank of Patiala, Branch Gurgaon. However, on presentation, the said cheque got dishonoured on account of 'insufficient funds'. The complainant thereafter, issued the statutory notice dated 28.07.2011, however, despite that the payment was not made by the accused, thereby compelling the complainant to institute the complaint seeking his prosecution for the offence punishable under Section 138 Negotiable Instruments Act, 1881.

After conclusion of trial, trial Court vide its judgment dated 08.10.2015 held the accused guilty of the offence punishable under Section 138 of Negotiable Instruments Act, 1881. On 12.10.2015, the order of sentence was passed thereby imposing sentence of simple imprisonment for a period of one year and further directed the convict to pay Rs.5,00,000/- as compensation to the complainant.

Aggrieved against the said judgment of conviction and order of sentence, an appeal bearing No.CRA-391-2015 was preferred and the same was also dismissed vide its order dated 17.02.2020. Hence this revision petition.

Notice of motion in the petition was issued on 07.08.2020 and said order reads as under:

outset submits that if the sentence of the petitioner will be suspended, the petitioner will deposit half of the amount within 04 weeks. The petitioner has been convicted for 01 year in a complaint filed under Section 138 of Negotiable Instruments Act. As per custody certificate dated 06.08.2020, the applicant has undergone 08 months and 03 days including remission out of substantial sentence of 01 year awarded to him.

NOM for 22.09.2020.

In view of the above statement of learned counsel for the petitioner, the remaining sentence of the applicant-appellant is suspended during the pendency of the revision, subject to his furnishing fresh bail bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Rewari. However, the petitioner shall deposit half of the amount within a period of 04 weeks before the Registry of this Court, which shall be given to the complainant.”

Learned counsel for the petitioner contends that during the pendency of the present revision petition, the parties have entered into a compromise and therefore, this application has been filed for compounding the offence. He has invited the attention of the Court to the affidavit of the complainant dated 19.09.2020 (Annexure A-1), wherein it is specifically stated that by him that he has no objection if the complaint is allowed to be compounded.

At this stage, learned counsel for the complainant (respondent) states that indeed the parties have arrived at a compromise and he has no objection in case the offence is ordered to be compounded.

Learned State counsel does not dispute the above fact.

Considering the nature of the offence, the stand of the parties

behalf of the parties to the petition is accepted and the judgment of conviction and order of sentence dated 08/12.10.2015, passed by the learned trial Court, and order dated 17.02.2020, passed by the learned Appellate Court, are hereby set aside and convict is relieved of all the consequences of the conviction.

Disposed off.

(MANOJ BAJAJ)
JUDGE

29.10.2020
vanita

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