

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

**CRM No. 20101 of 2020 in/and
CRR No. 1187 of 2019
Date of decision: 26.08.2020.**

Jatinder Singh

..... Petitioner.

Versus

State of Punjab and another

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Liaqat Ali, Advocate, for the petitioner.

Mr. Dhruv Dayal, Senior DAG, Punjab, for respondent No. 1.

Mr. Om Pal Sharma, Advocate, for respondent No. 2.

ANUPINDER SINGH GREWAL, J. (ORAL)

CRM No. 20101 of 2020

Heard through video conferencing.

This application is for release of amount, which has been deposited by the non-applicant/petitioner in terms of order dated 16.05.2019, to applicant/respondent No. 2 or for passing of any other appropriate order.

Learned counsel for applicant/respondent No. 2 contends that the amount deposited by the non-applicant/petitioner in terms of order dated 16.05.2019 passed by this Court be released to applicant/respondent No. 2.

Issue notice to the non-applicant/petitioner.

Mr. Liaqat Ali, Advocate, accepts notice on behalf of the non-applicant/petitioner and contends that as the non-applicant/petitioner has deposited the demand draft with the Registrar (Judicial) of this Court in terms of order dated 16.05.2019 passed by this Court, the date of hearing can be

preponed and the matter can be disposed of in view of the judgment of the Supreme Court in the case of Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663.

Learned counsel for applicant/respondent No. 2 states that he also wants that the date of hearing be preponed and the petition be taken up for hearing today itself so that the matter can be disposed of.

Heard. For the reasons stated in the application, the same is allowed and the date of hearing in the revision petition is preponed and the matter is taken up for hearing today itself.

CRR No. 1187 of 2019

The petitioner has challenged the judgments and orders of the Courts below whereby he has been convicted under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act' - for short) and has been sentenced to undergo rigorous imprisonment for a period of nine months and pay a fine of ₹5,000/-.

Learned counsel for the petitioner contends that the allegations against the petitioner are that on 30.08.2013 he had issued a cheque for an amount of ₹1,00,000/- in favour of respondent No.2 (complainant) which was dishonoured as the payment was stopped. He, however, contends that the petitioner has deposited a demand draft for the cheque amount along with interest @9% per annum thereon besides 15% of the cheque amount as costs with the Registrar (Judicial) of this Court as the full and final settlement of the dispute. He also prays that in view of the judgment of the Supreme Court in the case of Damodar S. Prabhu (supra), the offence may be compounded.

Per contra, learned counsel for respondent No. 2 (complainant)

states that the petitioner has indeed deposited the cheque amount along with interest @9% per annum besides 15% of the cheque amount as costs with the Registrar (Judicial) of this Court and he has 'no objection' if offence is compounded in terms of the judgment in Damodar S. Prabhu's case (supra).

The petitioner has been convicted under Section 138 of the NI Act. As the petitioner has already deposited the demand draft for the cheque amount along with interest @9% per annum thereon besides 15% of the cheque amount as costs with the Registrar (Judicial) of this Court as the full and final settlement of the dispute, it would be in the interest of justice if the offence is compounded under Section 320 (6) of the Code of Criminal Procedure, 1973. The liability under Section 138 of the NI Act is civil in nature and in case the parties have arrived at compromise, the same should be accepted to give quietus to the litigation.

Consequently, the petition is allowed. The offence under Section 138 of the NI Act is compounded. The judgment and order dated 17.09.2015 passed by the trial Court as well as the judgment dated 09.05.2019 passed by the Lower Appellate Court are set aside and the petitioner is acquitted of the charges framed against him. The demand draft/cheque for the cheque amount along with interest @9% per annum thereon for the amount deposited by the petitioner with the Registrar (Judicial) of this Court shall be handed over to respondent No. 2 (complainant) against proper receipt.

(ANUPINDER SINGH GREWAL)
JUDGE

26.08.2020
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No