

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

CRR No. 3831 of 2017 (O&M)

Date of decision: 15.01.2020

Sharanjit Singh

...Petitioner

Versus

Sunil Chawla and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Aakash Kumar Gupta, Advocate
for the petitioner.

Mr. Vinod Kumar Sharma, Advocate
for respondent No. 1/complainant.

Mr. Joginder Pal Ratra, DAG, Punjab
for respondent No.2-State.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the judgment of conviction dated 20.01.2016 and order of sentence of the even date, passed by the trial Court, vide which, the petitioner was held guilty for commission of offence punishable under Section 138 of the Negotiable Instruments Act (*for short 'N. I. Act'*) and was sentenced to undergo rigorous imprisonment for a period of one and a half year and to pay the compensation equivalent to double of the cheque amount; as well as the judgment dated 28.08.2017, vide which, the appeal filed by the petitioner was dismissed by the lower appellate Court.

Brief facts of the case are that respondent/complainant Sunil Chawla filed a criminal complaint under Section 138 of the N.I. Act against appellant/accused Sharanjit Singh on the allegations that accused Sharanjit Singh obtained a friendly loan of Rs. 1,47,000/- from him in October, 2012

without any interest for a period of three months only, in order to meet his urgent financial needs and when the complainant made a demand for the repayment of the said loan amount in January, 2013, he has issued a cheque bearing No.184527 dated 17.01.2013 for a sum of Rs.1,47,000/-, drawn on HDFC Bank Ltd. G.T. Road, Jalandhar in favour of the complainant in order to discharge his liability. When the complainant presented the said cheque for encashment before the bank, the same was dishonoured with the remarks "Account closed", vide bank memo dated 19.01.2013. The complainant, thereafter, sent a legal notice dated 29.01.2013 through registered post, calling upon the accused to make the payment of the said cheque amount within a period of 15 days from the receipt of this notice, but the accused despite receiving of notice, failed to make the payment of the cheque amount. Thereafter, the complainant filed the aforesaid complaint under Section 138 of the N.I. Act against the petitioner, in which, the petitioner was convicted and his appeal was also dismissed by the lower appellate Court. Hence the present revision petition.

On 08.12.2017, noticing the fact that the parties have entered into a compromise and having taken on record a written compromise dated 07.12.2017, the parties were directed to appear before the Illaqua Magistrate, Jalandhar to get their statements recorded in support of the compromise and in the meantime, the sentence of the petitioner was suspended.

In pursuance thereof, a report dated 11.01.2019 has been received by the Chief Judicial Magistrate, Jalandhar, wherein it is reported that the compromise entered into between the parties is genuine, voluntary and without any pressure. It has further been reported that

complainant/respondent No. 1 Sunil Chawla has stated that he had already received the total amount from the accused/petitioner in lieu of cheque in dispute and he has no objection if the accused/petitioner is acquitted.

Learned counsel for respondent No. 1/complainant has acknowledged the fact that as per the settlement, arrived at between them, the entire payment has been received by respondent No. 1/complainant.

In view of the above, it is submitted by learned counsel for the parties that the present petition be allowed and the offence be compounded in view of the provisions of Section 147 of the N. I. Act.

After hearing both the parties and considering the fact that the parties have amicably settled their dispute and no other litigation is pending between them, the permission is granted to compound the offence under the provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in **2018 (1) R.C.R. (Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another** that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, this revision petition is allowed and judgment of conviction dated 20.01.2016 and order of sentence of the even date, passed by the trial Court; as well as the judgment dated 28.08.2017, passed by the lower appellate Court, are hereby set set aside.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement arrived at between them.

15.01.2020

Waseem Ansari

*Whether speaking/reasoned
Whether reportable*

**(ARVIND SINGH SANGWAN)
JUDGE**

*Yes/No
Yes/No*