

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

**CRR No.4856 of 2017(O&M)
Date of Decision: 30.01.2020**

Ravi Kumar

.....Petitioner

Versus

Gurpiar Singh

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Jatin Bansal, Advocate for
Ms. Boudh Prabha, Advocate
for the petitioner.

Ms. Shreya Vasishtha, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

CRM No.39318 of 2019

The present application has been filed under Section 482 of Code of Criminal Procedure for compounding the case in terms of settlement arrived at between the parties, which is reproduced hereasunder:-

“CRR 4856 of 2017(O&M)

IN THE MATTER OF:-

Ravi Kumar

.....Petitioner/Appellant

Versus

Gurpiar Singh

.....Respondent

Compromise-cum-Settlement Deed

This indenture of Compromise-cum-Settlement Deed is made and executed at Delhi on 20th day of March, 2018.

Between

1) Mohan Lal S/O Shri Rura Mal R/O 203/B1 West Central Railway Colony, Tuglakabad New Delhi 110044 and (2) Varun Kumar S/O Ravi Kumar R/O 203/B1 West Central Railway Colony, Tuglakabad New Delhi 110044

(hereinafter called and referred as the First Party)

AND

Gurpiar Singh S/O Late Shri Balwant Singh R/O present resident G-99 A Ground Floor, Near Laxmi Stone, Lal Kuan, M.B. Road, New Delhi 110044,
(hereinafter called and referred as the Second party).

WHEREAS, the first party are the Parokar of the convict Ravi Kumar, who had been convicted in the case titled as Gurpiar Singh Vs. Ravi Kumar complaint case Number 1307/2014 on 25.05.16 under Section 138 NI Act and while passing the order on sentence on 31.05.16 he has been sentenced to undergo simple imprisonment for a period of one year and also to pay compensation of Rs.6,00,000/- to the complainant within one month.

WHEREAS the convict Ravi Kumar there after aggrieved with the impugned judgment and order on sentence filed the appeal bearing Number CRA-284/2016 on 02.06.14 before the District and Session

Judge, Faridabad.

WHEREAS the above mention appeal came for the final hearing on 01.12.17 for adjudication before the Court of Shri Deepak Kumar, Session Judge, Faridabad and the Hon'ble Appellate Court was pleased to dismissed the above mentioned Criminal Appeal bearing Number 284/2016 filed by the accused/convict after hearing both the parties on merit and the accused/convict was taken into the custody by the Hon'ble Appellate Court on 01.12.2017.

WHEREAS the convict Ravi Kumar there after aggrieved with the impugned judgment, order on sentence and final order on above mention appeal filed a Revision Petition CRR 4856/2017 before this Hon'ble High Court.

WHEREAS the second party filed an application under Section 431 read with section 421 of Code of Criminal Procedure before the trial Court of Shri Pradeep Judicial Magistrate First Class, Faridabad for the recovery of remaining amount of compensation, which is pending for 07th April 2018.

WHEREAS the first party, who are the Paraokar and father and son of the Convict on the instruction of the convict Ravi Kumar voluntarily without any undue force approached to the Second Party and shown their desire on behalf of the convict that they would like to settle the matter by paying an amount of Rs.8,00,000/- (Rs. Eight Lakh only) within nine month from today i.e. on or before 20.12.2018 as a full and final settlement towards the present matter in the following manner, out of which Rs.50,000/- (Rs.Fifty

Thousand only) had already received by the Second party during the pendency of appeal before the Session Court Faridabad.

1. 20.04.2018	1,00,000/-
2. 20.05.2018	1,00,000/-
3. 20.07.2018	2,00,000/-
4. 20.09.2018	1,00,000/-
5. 20.10.2018	1,00,000/-
6. 20.12.2018	1,50,000/-

AND WHEREAS, by the intervention of the common friends and respectable persons from the society the complainant had agreed on the proposal made by the First party on behalf of the convict Ravi Kumar and both the parties have settled the matter amicably and resolved thinking the future of the convict without any pressure, coercion or undue influence from any corner, both the parties have made the settlement.

WHEREAS the father of the Convict, Ravi Kumar, namely Shri Mohan Lal S/O Shri Rura Mal R/O 203/B1 West Central Railway Colony, Tuglakabad New Delhi 110044 admitting the liability of the remaining settlement amount of Rs.7,50,000/- on behalf of the convict Ravi Kumar had issued a cheque bearing Number 128542 for an amount of Rs.7,50,000/- drawn at Allahabad Bank, Tuglakabad Ext. Delhi with the assurance that in case of the default of his convict son, Ravi Kumar, the same would be encashed by his bank and the Second would be entitled to keep the default amount with him.

AND WHEREAS it is also agreed between the parties that the above mentioned amount would be

paid before the trial Court of Judicial Magistrate at Faridabad and furthered agreed between the parties that in case of any default in payment of the settlement amount in the schedule mentioned above, the amount paid till the date of default would be adjusted towards the compensation amount of Rs.6,00,000/- (Rs. Six Lakh only) as granted by the trial Court while passing order on sentence on 31.05.16 and the convict would be directly sent to imprisonment to undergo remaining sentence and the convict would be having no right to contest the present Revision Petition and the same would be construed as dismissed and the order passed by the trial Court would attain finality, without prejudice of the Second party to recover the remaining amount through the above mentioned application already filed before the trial Court and further without prejudice of the second party to recover the amount from the above cheque bearing Number 128542 for an amount of Rs.7,50,000/- drawn at Allahabad Bank, Tuglakabad Ext. Delhi of the father of the convict.

AND whereas the per the undertaken by the First party that in case had informed to the Second party that his company had not filed any case/complaint against the second party in any Court/authority against the above said cheques or against the goods articles delivered to the Second party and further undertaken that if there is any case found pending against the Second party then it would be withdrawn by it and even otherwise the same be deemed to be withdrawn.

AND whereas it was also agreed between both

the First Party and Second Party that after the complete payment of the settled amount the Second party would give his statement before the trial Court and would return the above mentioned cheque issued by the father of the convict.

AND whereas after the payment of above mentioned settled amount no dispute of any kind would be left and no claims would remain against each other except mentioned in this deed and both the parties would not proceed against each other anymore before any Court/authorities whether known or unknown to the other party.

AND whereas both have set together and sorted out the entire dispute amicably, with their free will and consent and without any kind of threat, pressure, undue influence or coercion from any corner and with the intervention of friends, relatives and respective person of both the parties and the First party have assured the Second party that they have proper instruction to settle the matter as per the terms mentioned above from the convict, Ravi Kumar.

WHEREAS it has been agreed between both the parties that the parties are assured to be bound with this settlement deed and in case of default the defaulted party has to bear the expenses and other party has the right to get it enforced by the Court.

WHEREAS it is also agreed between both the parties that this compromise-cum-settlement deed shall come into operation with immediate effect of the execution of this compromise-cum-settlement deed.

IN WITNESSES WHEREOF, both the parties

to this indenture have put their respective hands on this compromise-cum-settlement deed on the day, month and year first mention above, in the presence of each other and also in the presence of the following witnesses and the witnesses have also signed in the presence of the parties.

Sd/-
FIRST PARTY

Sd/-
SECOND PARTY

Sd/-
WITNESSES”

Application stands disposed of in terms of compromise so recorded.

CRR No.4856 of 2017(O&M)

[1]. The present criminal revision has been filed by the petitioner against the order dated 25.05.2016 passed by Judicial Magistrate First Class, Faridabad, whereby he was sentenced to undergo rigorous imprisonment for one year under Section 138 of the Negotiable Instruments Act along with compensation amount of Rs.6,00,000/- to be paid to the respondent within one month from passing of the said judgment. Petitioner has also challenged the judgment dated 01.12.2017 passed by Sessions Judge, Faridabad, vide which appeal filed by him was dismissed.

[2]. During pendency of the present criminal revision, both the parties have entered into an amicable resolution of dispute

on 22.03.2018. The willingness of the petitioner was noticed to the effect that he was ready to pay the cheque amount to the respondent/complainant by way of an initial amount of Rs.2,00,000/- to be followed up by balance amount of Rs.4,00,000/- in a short period. Notice of motion was issued and thereafter, learned counsel for the respondent appeared in the Court on 05.04.2018. On the basis of compromise deed placed on record, interim bail was granted to the petitioner and the petitioner was directed to deposit compounding fees at the rate of 15% of the disputed cheque amount in terms of direction of the Supreme Court in **Damodar S. Prabhu Vs. Sayed Babalal H, AIR (2010)(SC)1907.**

[3]. On 20.08.2018, following order was passed by this Court:-

*“Learned counsel for the petitioner has produced a photocopy of receipt No.0002061 dated 20.08.2018 of the Haryana State Legal Services Authority, whereby the petitioner has deposited an amount of Rs.60,000/- i.e. 15% of the cheque amount, in compliance of the judgment of the Hon'ble Apex Court in **Damodar S. Prabhu Versus Sayed Babalal, H.-AIR(2010) 1907.***

Adjourned to 15.01.2019.”

[4]. On 15.01.2019, learned counsel for the petitioner brought cheque No.521815 dated 15.03.2019 for a sum of

Rs.6,50,000/-, which was handed over in original to the learned counsel for the respondent against acknowledgment on photocopy of the same.

[5]. Today, both the parties have appeared in Court. Learned counsel for the parties are *ad idem* that the parties have resolved their differences and 15% of the cheque amount has already been deposited towards compounding fee. Nothing is due against the petitioner.

[6]. Learned counsel for the petitioner by relying upon **Cochin Hotels Co.(P) Ltd. and others Vs. Kairali Granites and others, 2006(2) RCR (Criminal) 333** and **K. Subramanian Vs. R. Rajathi represented by POAP Kaliappan, 2010 (1) RCR (Criminal) 184** contended that even after finalization of judgment of conviction and order of sentence, petitioner can resort to compounding mechanism in terms of Section 147 of Negotiable Instruments Act as the offence related to dishonouring of cheque is having compensatory profile and it should be given precedence over punitive mechanism. Offence is almost a civil wrong which has been clothed in a criminal overtone, therefore, the priority should be given to compensatory mechanism.

[7]. Learned counsel also relied upon **Damodar S. Prabhu vs. Sayed Babalal H.(supra) Kaushalya Devi Massand vs.**

Roopkishore, 2011(2) RCR (Criminal) 298 and contended that the compromise in question would definitely go in long way to strengthen the mutual relationship between the parties and would serve as an ever lasting tool in their favour. This exercise would be in consonance with the spirit of Section 147 of the Negotiable Instruments Act as endorsed in **Damodar S. Prabhu's case (supra)**.

[8]. For the reasons recorded hereinabove, I deem it appropriate to set aside the impugned order(s) and allow the criminal revision on the basis of compromise. Normal consequences to follow.

30.01.2020

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking Yes/No

Whether reportable Yes/No