

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

CRR-2895-2018(O&M)

Date of decision:-23.1.2020

Baljeet Singh

...Petitioner

Versus

The Hisar District Primary Co-operative Agricultural & Rural
Development Bank Ltd., Narnaund through its authorized person

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.L. Barwala, Advocate
for the petitioner.

Mr.Vivek Sheoran, Advocate
for the respondent.

H.S. MADAAN, J.

Briefly stated, facts of the case are that complainant The Hisar District Primary Co-op. Agricultural & Rural Development Bank Ltd., Narnaund through its Authorized person had brought a complaint under Section 138 read with Section 141 of Negotiable Instruments Act, 1881 (hereinafter referred to as the Act) against Baljeet Singh. As per the version of the complainant, the accused had raised a loan of Rs.1,00,000/- from the complainant on 26.2.2008, which was to be repaid in easy monthly installments. However, the accused did not stick to the repayment schedule and committed defaults. The complainant sent notice to the accused, in response of which he came to the office of complainant bank and issued a cheque No.524811 dated 28.3.2011 in the sum of

Rs.55,484/- drawn on The Hisar District Central Co-op. Ltd. Bank, Narnaund from his saving bank account No.8248 in favour of the complainant - bank for the purpose of clearance of its dues giving an assurance that on presentation of the cheque, the same would be encashed. However, when the complainant presented the cheque, the bank of the accused returned it uncashed due to insufficiency of funds in account of the accused and informed the complainant in that regard vide memo dated 15.9.2011. The complainant served notice under Section 138 of the Act upon the accused calling upon him to make the payment within 15 days of receipt of notice but to no effect. Therefore, the complainant brought complaint in question before Judicial Magistrate Ist Class, Hansi.

After recording of preliminary evidence, the accused was summoned to face trial for the offence under Section 138 of the Act. The accused put in appearance and was admitted to bail. Notice of accusation was served upon him, to which, he pleaded not guilty. The complainant led oral as well as documentary evidence. Thereafter, the statement of accused under Section 313 Cr.P.C. was recorded, in which all the incriminating material brought on record was put to him but he denied the same contending that he was innocent and had been falsely involved in this case. He led evidence in defence. After hearing arguments, learned Judicial Magistrate Ist Class, Hansi vide judgment dated 2.3.2016 convicted the accused for the offence under Section 138 of the Act and vide order dated 3.3.2016 sentenced him to undergo rigorous imprisonment for a period of six months and to pay compensation to the tune of Rs.55,484/- i.e. equal to the amount of cheque to the complainant

within two months from the date of judgment.

Feeling dissatisfied, the accused had preferred an appeal to the Court of Sessions, which was however, dismissed by learned Additional Sessions Judge, Hisar vide judgment dated 24.8.2018.

The accused/convict was still dissatisfied and had knocked at the door of this Court by way of filing the instant revision petition, notice of which was given to respondent, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

During the course of proceedings, the parties have compromised the matter. The accused has cleared the dues to the complainant to its satisfaction. Copy of no due certificate by the complainant-respondent has been placed on record. The composition fee of Rs.8,325/- has since been paid by the revisionist with Haryana State Legal Services Authority, Panchkula. Copy of receipt from such authority along with copy of bankers cheque has been placed on record.

Learned counsel for the petitioner states that the petitioner has deposited the entire outstanding amount, which fact is conceded by learned counsel for the respondent stating that respondent-complainant is satisfied with the amount deposited and has no objection if the present revision petition is accepted and does not oppose the application for compounding of offence.

In support of his contention that the offences can be compounded at the stage of appeal/revision, learned counsel for the

petitioner has referred to *Sube Singh and another Versus State of Haryana, 2013(4) RCR(Criminal) 102* and *Chhota Singh Versus State of Punjab, 1997(2) R.C.R.(Criminal) 392*.

Offence under Section 138 of Negotiable Instruments Act is compoundable. In view of Section 320(6) Cr.P.C., a High Court or Court of Sessions acting in the exercise of its powers of revision under section 401 Cr.P.C. may allow any person to compound any offence which such person is competent to compound under this section. Therefore, the parties are allowed to compound the offence.

I am satisfied that offence have been compounded between the parties to keep peace and advance maintenance of tranquility in the society to promote harmonious relations between the members of society and it is found proper and appropriate to grant leave to compound the offences, therefore, such application is allowed. Accused/convict and complainant are permitted to compound the offences.

Resultantly, this revision petition is allowed and judgments passed by the Courts below are set aside by way of acceptance of revision petition, as a result, petitioner is acquitted of the charge framed against him.

23.1.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No