

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

**CRR-3325 of 2019 (O&M)
Date of Decision: 13.03.2020**

Avtar Dass

.....Petitioner

Versus

Baljinder Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. H.P.S.Ghuman, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

CRM-9279-2020

This application has been filed under Section 482 Cr.P.C. seeking permission to place on record compromise dated 05.03.2020 (Annexure P-1) and affidavit dated 05.03.2020 (Annexure P-2) and seeking exemption from filing certified/typed copies thereof.

For the reasons mentioned in the application, the same is allowed.

CRM-9280-2020

This application has been filed under Section 482 Cr.P.C. for early hearing of the case as the matter has been compromised between the parties.

Mr. Naveen Kumar, Advocate has put in appearance on behalf of the respondent by filing power of attorney, which is taken on record.

As matter has been compromised between the parties, learned counsel for the respondent has no objection if the case is preponed.

The application is allowed and the main case is preponed from 28.04.2020 to today itself.

CRR-3325 of 2019

The present revision petition has arisen out of the impugned judgment dated 06.09.2019 passed by the Additional Sessions Judge, Patiala, vide which the appeal filed by the petitioner, challenging the judgment and order of sentence dated 06.07.2018 passed by Judicial Magistrate 1st Class, Nabha in complaint case under Section 138 of Negotiable Instruments Act, 1881 ('Act' for short) and Section 420 IPC has been dismissed.

As per the prosecution, on 10.11.2016 a complaint was made by Baljinder Kaur-complainant against the petitioner stating that the petitioner-Avtar Dass took a loan of Rs. 5,80,000/- on 03.06.2014, Rs. 7,50,000/- on 18.07.2014 and Rs. 5,50,000/- on 19.08.2014 from the husband of the complainant, through cheques on the above said dates from the account no. 803010001197 of the husband of the complainant, to the account no. 803010008173 of the accused in ING Vysya Bank Ltd. Branch Bhadson, District Patiala.

After preliminary evidence, petitioner was summoned to face trial under Section 138 of the Act.

Notice of accusation was served upon the petitioner to which he pleaded not guilty and claimed trial.

Thereafter, cross-examination of complainant-Baljinder Kaur CW-1 was conducted and she closed her evidence.

Statement of accused under Section 313 Cr.P.C. was recorded. All the incriminating material was put to the accused, which he denied and pleaded innocence.

The accused closed his defence evidence without examining any witness.

After appreciating the evidence and after hearing the arguments, the learned trial Court vide judgment and order dated 06.07.2018 convicted the accused under Section 138 of the Act and sentenced him to undergo simple imprisonment for a period of 2 years and to further pay amount of Rs. 5,50,000/- to the complainant.

Feeling aggrieved against the judgment and order dated 06.07.2018, the accused-appellant filed the appeal before the learned Appellate Court.

After appreciating the evidence on record, the learned Appellate Court concluded that the impugned judgment and order of sentence dated 06.07.2018 have been rightly passed by learned trial Court, which do not suffer from any illegality or irregularity such as could be termed to be prejudicial to the rights of either of the parties and as such, the same does not call for any interference by the Appellate Court in exercise of its appellate jurisdiction. The appeal being devoid of merits is accordingly dismissed and the findings of the learned trial Court are hereby affirmed. Bail/surety bonds of the appellant are cancelled and he is ordered to be taken into custody and be sent to Central Jail, Patiala to undergo the sentence.

Aggrieved by the said judgment, the petitioner has preferred the present revision petition.

I have heard learned counsel for the parties and with their able assistance, have also gone through the paper book.

Learned counsel for the petitioner submits that the matter has been compromised between the parties and as per the compromise (Annexure P-1), the amount in question has been paid to the complainant-respondent-Baljinder Kaur. It has been prayed that since the matter has been compromised and the amount in question has been paid, the offence under Section 138 of the Act may be compounded.

This factum qua compromise has not been disputed by the learned counsel appearing for the complainant-respondent, as well as the respondent-Baljinder Kaur herself, who is present in the Court and has been identified by her counsel.

It is, thus, jointly contended by the counsel for petitioner and respondent that in view of the compromise, the present petition may be allowed; the impugned judgments and order passed by the Courts below, may be set aside and the petitioner may be acquitted of the charge framed against him. In support of the said assertions, learned counsel for the parties have relied upon the judgment of this Court reported as ***Jaswinder Singh Vs. State of Punjab and another, 2011(7) R.C.R. (Criminal) 2613.***

Reliance is also placed upon the judgment passed by Supreme Court of India in the case of ***Saroj Pande Vs. Grasim Cement Prop. G.C. Indus. Ltd. 2012 (5) R.C.R. (Criminal) 377.***

In view of the above, the permission to compound the offence punishable under Section 138 of the Act is granted. The impugned judgment dated 06.09.2019 passed by the Additional Sessions Judge, Patiala and

judgment of conviction and order of sentence dated 06.07.2018 passed by Judicial Magistrate 1st Class, Nabha, are set aside. The complaint under Section 138 of the Act and Section 420 IPC is dismissed and the petitioner is acquitted of the accusation of charge.

The petition is disposed of accordingly.

(HARNARESH SINGH GILL)
JUDGE

13.03.2020
Maninder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No