

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

CRR No. 3454 of 2019 (O&M)

Date of decision: 21.01.2020

Bir Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. S. Sandhu, Advocate
for the petitioner.

Mr. A. P. S. Gill, DAG, Punjab.

Ms. Urvashi Singh, Advocate
for respondent No. 2/complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the judgment of conviction dated 09.02.2017 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 six months and to pay the compensation of Rs. 66,500/- to the complainant; as well as the judgment dated 06.04.2018, vide which, the appeal filed by the petitioner was dismissed by the lower appellate Court.

Brief facts of the case are that a complaint under Section 138 of the N.I. Act was filed by the respondent/complainant against accused/petitioner Bir Singh with the allegations that in order to discharge his legal liability, the accused/petitioner issued cheque No.028227 dated 04.06.2013 for a sum of Rs.50,000/- in favour of the complainant drawn on Union Bank of India, Branch Sultanpur Lodhi, District Kapurthala with the

assurance that the cheque on its presentation shall be duly honoured but on presentation of the said cheque with the bankers of the respondent and vide memo dated 13.06.2013 issued by the bankers of the accused, the said cheque was dishonoured with the remarks "Insufficient of Funds". Thereafter a legal notice dated 08.07.2013, calling upon him to make the payment, was issued to the accused/petitioner but the accused/petitioner failed to make the payment of the said cheque within the stipulated period. 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 19.12.2019, noticing the fact that the parties have entered into a compromise and the entire payment has already been made to the respondent/complainant, the parties were directed to remain present before this Court for the purpose of recording their statement before the Mediation and Conciliation Centre of this Court in support of the compromise.

Today, the matter has been taken up and since the parties, in compliance with the aforesaid order, were present in Court, they were directed to appear before the Mediator for the purpose of recording their statement, wherein respondent No. 2/complainant has stated that the petitioner/accused has paid him a sum of Rs. 66,500/- as full and final settlement including compensation on 21.10.2019 and now nothing is due against him. It is further stated by respondent No. 2/complainant that he has no objection if the revision petition is allowed and the petitioner is acquitted. The petitioner/accused has also stated on the similar line.

Learned counsel for respondent No. 2/complainant has

acknowledged the fact that as per the settlement, arrived at between them, the entire payment has been received by respondent No. 2/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 09.02.2017 and order of sentence of the even date, passed by the trial Court; as well as the judgment dated 06.04.2018, 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.

21.01.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No