

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

CRR-1429-2018(O&M)

Date of decision:-5.6.2020

Hari Chand

...Petitioner

Versus

Indian Overseas Bank and another

...Respondents

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

Present: Mr.A.K. Sama, Advocate
for the petitioner.

Mr.Rohit Gupta, Advocate
for respondent No.1.

Ms.Monika Jalota, DAG, Punjab.

H.S. MADAAN, J.

Briefly stated, facts of the case are that complainant Indian Overseas Bank having its Branch Office at Abohar, Tehsil Abohar, District Fazilka had brought a complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as the Act) against Hari Chand son of Milawa Ram, resident of village Jandwala Meera Sangla, Tehsil & District Fazilka on the allegations that the complainant bank advanced a sum of Rs.2,95,000/- as car loan on 12.8.2008 and Rs.3 lakhs as term loan on 20.8.2008 to the accused, on accused executing all the relevant documents in favour of the complainant - bank, whereby he agreed to repay the loan amount along with interest as per schedule

agreed; however, he did not stick to the repayment schedule; for discharge of his liability in part, the accused had issued a cheque No.101928 dated 20.2.2012 for a sum of Rs.5,50,000/- drawn on Indian Overseas Bank, Branch Abohar in favour of the complainant giving an assurance that on presentation, the cheque would be encashed. However, it was not so inasmuch when the cheque was presented by the complainant, it was returned uncashed on account of insufficient funds in the account of the accused. The complainant was informed in that regard by the banker of accused vide memo dated 20.2.2012. Thereafter, the complainant served a legal 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 Sub-Divisional Judicial Magistrate, Abohar.

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 did not led evidence in defence.

After hearing arguments, learned Sub-Divisional Judicial Magistrate, Abohar vide judgment dated 1.3.2016 convicted the accused for the offence under Section 138 of the Act and vide order of even date

sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default of making payment of fine to further undergo rigorous imprisonment for six months.

Feeling dissatisfied, the accused had preferred an appeal to the Court of Sessions, which was however, dismissed by learned Additional Sessions Judge, Fazilka vide judgment dated 2.12.2016.

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 respondents, who 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 and on an application having been filed under Section 320 read with Section 482 Cr.P.C. and Section 147 of the Act, permission to compound the offence has been granted vide order dated 5.2.2020.

As directed, the revisionist/petitioner has deposited 15% of the cheque amount with District Legal Services Authority, Fazilka. Copy of receipt in that regard has been placed on record.

Learned counsel appearing for respondent/complainant – bank states that since in terms of the compromise between the parties, the revisionist/accused has deposited the agreed amount and no amount remains to be unpaid, he has no objection, if the revision petition is disposed of in terms of the compromise.

Section 147 of the Act clearly dilates that the offences under the Act are compoundable.

Under the circumstances, since permission to compound the offence has been granted by this Court vide order dated 5.2.2020 and the revisionist/petitioner has also deposited 15% of the cheque amount with District Legal Services Authority, Fazilka, the present criminal revision petition is allowed and judgments passed by the Courts below are set aside, as a result, the petitioner is acquitted of the notice of accusation served upon him.

It is stated that the revisionist/petitioner is lodged in Central Jail, Ferozepur undergoing the imprisonment. Let intimation be sent to Superintendent of that jail to set the revisionist at liberty, if he is not required in any other case.

5.6.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No