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

**CRR No.3385 of 2018 (O&M)
Date of Decision: 23.01.2020**

Naveen Kumar

.....Petitioner

Vs

Krishan Kumar and another

....Respondents

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

Present: Mr. Naveen Kumar, petitioner in-person.

Ms. Manjeet Kaur, Advocate for
Mr. R.D. Yadav, Advocate
for respondent No.1.

Mr. P.K. Jhanda, A.A.G., Haryana
for respondent No.2.

RAJ MOHAN SINGH, J. (Oral)

[1]. This crl. revision petition has been filed against the judgment/order dated 19.09.2018 passed by the Sessions Judge, Rewari vide which decision of the trial Court dated 17.03.2018 passed was upheld.

[2]. Petitioner was convicted and sentenced to undergo simple imprisonment for a period of one year and to pay the cheque amount of Rs.3,50,000/- along with 10% of additional amount towards compensation under Section 138 of the

Negotiable Instruments Act (hereinafter to be referred as 'the Act') in a criminal complaint No.60 of 2015 filed by respondent No.1 before the trial Court. The conviction/sentence awarded to the petitioner has been upheld by the lower Appellate Court.

[3]. During pendency of the present petition, both the parties have amicably resolved their differences.

[4]. On the basis of readiness and willingness of the petitioner to deposit the entire cheque amount along with compensation, respondent No.1 also came forward to accept the offer. Thereafter, an amount of Rs.3,35,000/- has been paid by the petitioner to respondent No.1. An amount of Rs.50,000/- has also been deposited by the petitioner in the Treasury of District and Sessions Court, Rewari at the time of filing of appeal. The said amount has already been released to respondent No.1, who has also filed an affidavit dated 16.10.2018 in this Court as a token of confirmation to the aforesaid understanding between the parties.

[5]. Vide order dated 16.10.2018 passed by the Co-ordinate Bench of this Court, sentence of the petitioner has already been suspended.

[6]. In view of ratio laid down in **Kaushalya Devi Massand vs. Roopkishore Khore, 2011(2) RCR (Criminal) 298** and

Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097

the revisional jurisdiction of the High Court in terms of Section 401 Cr.P.C can be resorted to in such like situation in order to bring the ends of justice between the parties. The revisional power can be exercised in consonance with the spirit of Section 147 of the Act.

[7]. Section 147 of the Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in *stricto sensu*, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court. The Court in a given case can reduce the costs as regards the specific facts involved therein, of course reasons are to be recorded for such a variance.

[8]. Petitioner is a practising lawyer. Keeping in view the fiduciary relationship between the petitioner and respondent

No.1, I am of the view that indulgence can be granted to waive condition of 15% of the cheque amount towards costs of litigation. This is more so in view of the circumstances in which the litigation is fought before the Courts below.

[9]. In view of above, impugned judgments/order(s) are set aside. The present petition is allowed in terms of the compromise. Petitioner is allowed to compound the offence in terms of Section 147 of the Act. Normal consequences to follow.

January 23, 2020

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No