

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.197 of 2020**

Arising Out of PS. Case No.-2473 Year-2016 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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SAURABH KUMAR S/o Late Pashupati Nath Verma @ Pashupati Verma
Resident of Mohalla- Bhawanipur Zirat, P.O.- Motihari Town, P.S.-
Chhatauni, Distt- East Champran

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Hari Shankar Prasad S/o Late Chandradeo Lal Resident of Mohalla- New Colony, Khoda Nagar, Dharam Samaj Road, P.O. Motihari town, P.S.- Chhatauni, Distt- East Champaran.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Pravin Kumar, Advocate
For the Respondent/s	:	Mr.Awadhesh Kumar Singh, APP
For O. P. No. 2	:	Mr. Anil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 09-08-2021 This revision application arises out of judgment dated 01.08.2019 passed by learned Sessions Judge, East Champaran, Motihari in Cri. Appeal No. 62 of 2018. By the impugned judgment, learned Sessions Judge has been pleased to affirm the judgment of conviction and order of sentence dated 26.07.2018 passed by learned Additional Chief Judicial Magistrate 14th Court, Motihari in Trial No. 1596 of 2018 arising out of complaint case no. C-2473 of 2016. The learned trial court has convicted the petitioner under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for two years and fine of Rs.2 lakhs which is to be deposited by the petitioner in favour of the complainant to pay him as compensation under Section 357 of the Code of Criminal Procedure

and in default thereof the petitioner shall undergo further simple imprisonment of six months.

The application being I.A. No. 1 of 2020 has been filed seeking condonation of delay of 122 days in filing of the present application.

Learned counsel for the petitioner submits that the petitioner is a physically weak person and because of his continuous treatment in connection with jaundice, the petitioner could not prefer the revision application in time. The petitioner was arrested in connection with this case on 18.12.2019, however, the revision application has been preferred on 14.02.2020.

It is his further submission that the delay need to be condoned in larger interest of justice keeping in view the developments which have taken place in this case after the impugned judgment. It is his submission that now both the parties have entered into a compromise on 10.12.2020. In this connection, a copy of compromise petition has been brought on record as Annexure '1' to the supplementary affidavit filed on behalf of the petitioner.

In this case notice was issued to complainant- O.P. No. 2 who has entered appearance through Mr. Anil Kumar, learned Advocate. There is no opposition to the application seeking condonation of delay.

In the given facts and circumstances, this Court allows the

application and condone the delay.

On merit, learned counsel for the petitioner submits that the conviction of the petitioner is under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the Act of 1881'). Learned counsel for the petitioner submits that the offences under Section 138 of the Act of 1881 is a compoundable offence. In this connection, reference has been made under Section 147 of the Act of 1881. Learned counsel submits that the compounding may be done at any stage and there is no impediment in entering into a compromise after completion of the proceeding before the appellate court.

Reliance in this connection has been made on the judgment of the Hon'ble Supreme Court in the case of **K. M. Ibrahim vs. K. P. Mohammed & Anr.** reported in **(2010) Supreme Court Cases 798.**

Learned counsel for the complainant- O.P. No. 2 has supported the compromise.

This Court has perused the compromise petition which is on the record. The Court has also gone through the report of the learned Additional Chief Judicial Magistrate 14th, East Champaran, Motihari as contained in letter no. 06 of 2021. The report is also confirming that the parties have filed a compromise petition in this case.

Considering the facts and circumstances of the case, since the offence under Section 138 of the Act of 1881 is compoundable and the parties have brought on the record the compromise and this Court has been informed that the compromise has been given effect to, this Court sets aside the impugned judgment and allow this application. The petitioner is acquitted from the charge.

The revision application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.