

CRR-244-2021(O&M)

[1]

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

Criminal Revision No.244 of 2021(O&M)

Date of Decision: April 28, 2021

Hari Chand

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Rose Gupta, Advocate
for the applicant – petitioner.

Mr.Rahul Mohan, DAG, Haryana.

Mr.Drupad Sangwan, Advocate
for respondent No.2.

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HARINDER SINGH SIDHU, J.

The case is heard through video-conferencing due to Covid
Pandemic-19 situation.

CRM-6529-2021:

For the reasons stated in the application, delay of 395 days in
filing the revision petition is condoned.

Application stands disposed of.

CRR-244-2021(O&M) :

Notice of motion.

Mr.Rahul Mohan, DAG, Haryana and Mr.Drupad Sangwan,
Advocate have accepted notice on behalf of respondent No.1 and 2,
respectively.

By filing the present revision, the petitioner has challenged the judgment and order dated 08.02.2018/12.02.2018 passed by Judicial Magistrate Ist Class, Hisar in Criminal Complaint No.467-II dated 17.03.2016 titled 'Joginder Singh vs. Hari Chand', whereby he has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of three months and to pay compensation of Rs.80,000/- (cheque amount) to the complainant. In default of payment of compensation, he was to further undergo simple imprisonment for three months. Challenge is also to the judgment dated 06.11.2019 passed by Additional Sessions Judge, Hisar, whereby, the appeal of the petitioner was dismissed.

Ld. Counsel for the petitioner has stated that the matter has now been compromised between the parties. Affidavit dated 17.12.2020 of the respondent No.2– complainant (Annexure P-1) has been annexed. It is stated in the affidavit that with the intervention of the Panchayat the matter has been settled and the petitioner – accused has paid the entire amount of Rs.80,000/- to the complainant. The amount has been received by the complainant unconditionally. The complainant – respondent has further stated that he has no grudge against the petitioner – accused and that he has no objection in case the judgment and orders of both the courts below qua conviction and sentence of the appellant are set aside and he is acquitted by this Court pursuant to the compromise.

Ld. Counsel for respondent No.2 – complainant has affirmed that he has no objection if the petitioner is acquitted.

Ld. Counsel for the petitioner relying on the decision of the

Hon'ble Supreme Court in *Damodar S.Prabhu vs. Sayed Babalal H. 2010(5) SCC 663*, has argued that compounding of offence under Section 138 of the Negotiable Instruments Act can be permitted at the appellate or revisional stage.

As per the guidelines laid down In **Damodar S.Prabhu's** case if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs to be deposited with the Legal Service Authority operating at the level of the Court where the compounding takes place.

In the present case 15% of the cheque amount of Rs.80,000/- is Rs.12,000/-. However, Ld. Counsel for the petitioner has agreed to pay Rs.15,000/- as costs.

Accordingly, the revision is allowed. The impugned judgments of conviction and order of sentence passed by the Courts below are set aside. The petitioner is acquitted of the charges. The costs of Rs.15,000/- be deposited with the Haryana State Legal Services Authority, Panchkula within two weeks from today.

April 28, 2021

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No