

In the High Court of Punjab and Haryana at Chandigarh

CRR No. 1850 of 2011 (O&M)
Date of Decision: 18.11.2021

Rajinder Singh Bakshi

.....Petitioner

Versus

Ashwani Kumar Sharma and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. J.S.Cooner, Advocate
for the petitioner.

Ms. Priya Sharma, Advocate
for respondent No. 1.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner has suffered impugned verdicts of conviction and, consequent therewith, sentence(s) of imprisonment, and, of fine, from both the learned Courts below, in respect of a notice of accusation, put to him, under Section 138 of the Negotiable Instruments Act. He becomes aggrieved from the afore concurrently made judgments, and, has chosen to hence file the instant criminal revision petition.

2. However, during the pendency of the instant criminal revision petition, a compromise has occurred *inter se* the petitioner, and, the respondent-complainant.

3. In respect of the afore, the learned counsel for the respondent-complainant, has made a statement, without oath, before this Court, with echoings therein, that she has instructions, to state before this Court, that this Court may proceed to record an order of composition, in respect of the

offence arising out, of dishonour of the negotiable instrument.

4. In view of the afore made statement, the learned counsel for the petitioner, has also stated before this Court, that this Court may proceed to record an order compounding the offence, arising out of dishonour of the negotiable instrument concerned.

5. Therefore, this Court is constrained to compound the offence, arising out of dishonour of the negotiable instrument concerned. Furthermore, this Court is also constrained to accept the instant criminal revision petition, and, to acquit the petitioner-convict, of the notice of accusation, put to him, for an offence under Section 138 of the Negotiable Instruments Act, 1881.

6. Though, as a pre-condition for making an order of composition, for an offence arising out of dishonour of the negotiable instrument concerned, it is imperative for this Court to on account of delay, in the making of afore effort, hence to impose the requisite penalty, comprised in an order being made, upon the petitioner, to deposit 15% of the cheque amount before the State Legal Services Authority. However, the learned counsel for the petitioner submits, that since the petitioner is an aged, and, ailing person, therefore, instead of 15% of the cheque amount, being ordered to be deposited by him, before the State Legal Services Authority, rather he is ready and willing to deposit 7% of the cheque amount, as the requisite penalty, for the belated attempt, being made, to constrain this Court to compound the offence arising out of dishonour of the negotiable instrument concerned.

7. The afore prayer is accepted. Accordingly, the present petition is allowed. The verdicts passed by the Courts below are set aside. The

petitioner-convict, is acquitted of the notice of accusation, put to him, for an offence under Section 138 of the Negotiable Instruments Act, and the bail bonds and surety bonds, furnished by him, shall stand discharged. However, the afore order shall take effect only, on the petitioner-convict depositing, within six weeks hereafter, 7% of the cheque amount, before the State Legal Services Authority concerned.

8. The petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

November 18, 2021
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes/No