

In virtual Court

CRR-817-2021 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-817-2021 (O&M)
Date of decision: 18.08.2021

Ram Phal

... Petitioner

Vs.

HDFC Bank

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Kuldeep Sheoran, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

CRM-24268-2021

Prayer in this application is for condonation of delay of 738 days in
filing the revision petition.

It is stated in the application that when the petitioner came to know
about passing of judgments by the Courts below, his brother visited the jail and
in that process, delay of 738 days has occurred.

For the reasons stated in the application and the fact that the matter

has been compromised between the parties, which has been duly acknowledged by the respondent-Bank, this application is allowed and delay of 738 days in filing the revision petition is condoned.

CRM stands disposed of.

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Prayer in this revision petition is for setting aside the judgment of conviction dated 08.10.2018, vide which the petitioner was convicted for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (in short 'N.I. Act') and the order of sentence dated 12.10.2018, vide which he was sentenced to undergo rigorous imprisonment for a period of 06 months and to pay compensation of Rs.3,35,000/- to the complainant as well as the judgment dated 29.04.2019, vide which the appeal filed by the petitioner, was also dismissed.

Brief facts of the case are that the respondent-Bank has filed a complaint under Sections 138 & 142 of N.I. Act on account of dishonouring of cheque for a total sum of Rs.3,35,000/-. The trial Court, vide judgment of conviction dated 08.10.2018, held the petitioner guilty and convicted him and vide order of sentence dated 12.10.2018, he was sentenced to undergo R.I. for a period of six months and to pay compensation of Rs.3,35,000/- i.e. equivalent to the cheque amount, to the respondent-Bank. The appeal filed by the petitioner was also dismissed by the Additional Sessions Judge, Hisar vide judgment dated 29.04.2019.

Present revision petition has been filed challenging the aforesaid

judgments passed by both the Courts below.

Notice of motion.

Mr. Saurabh Bhardwaj, Advocate has appeared on behalf of the respondent-Bank and has submitted a short affidavit of Jatinder Mishra, Assistant Manager (Legal, Agri.), HDFC Bank Ltd., Regional Office, Chandigarh, in which it is stated that after passing of the judgments by the trial Court and the lower appellate Court, a compromise is effected between petitioner Ram Phal and respondent-Bank for a total sum of Rs.5,00,000/- against the financed amount of Rs.5,20,000/- and the respondent-Bank has no objection, if the offence against the petitioner is compounded, in accordance with law. The affidavit is attached by Power of Attorney signed on behalf of the respondent-HDFC Bank.

After hearing learned counsel for the parties and considering the fact that the petitioner has faced a protracted trial since 2016 and also considering the fact that the petitioner is not involved in any other case and has already paid Rs.5.00 lacs, which is over and above the cheque amount of Rs.3,35,000/- to the complainant, who has duly acknowledged the same by way of compromise.

It has been held by Hon'ble Supreme Court in **Sri Ashish Subba vs. Manoj Kumar Agarwal and another, 2018 (1) R.C.R. (Criminal) 971**, that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, the present petition is allowed and the judgment of

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conviction dated 08.10.2018 and order of sentence dated 12.10.2018 passed by the trial Court as well as the judgment dated 29.04.2019 passed by the first appellate Court are set aside.

Since the petitioner is in judicial custody, he be released forthwith, if not required in any other case.

[ARVIND SINGH SANGWAN]
JUDGE

18.08.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No