

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

**CRR-3975-2018 (O&M)
Date of decision-12.01.2021**

Vijay Kumar

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arvind Galav, Advocate for the petitioner.
Mr. Prabhjot Singh Walia, AAG, Punjab.
Mr. D.S.Gandhi, Advocate for respondent No.2.

MANOJ BAJAJ, J.

CRM-43532-2018 & CRM-29339-2020

The above applications have been filed by the applicant-petitioner for compounding the offence (Section 138 Negotiable Instruments Act, 1881) and for tendering the bank draft No.352253 dated 29.09.2020 and draft No.630182 dated 30.09.2020 amounting to Rs.40,000/- each (Annexures A-1 and A-2) in compliance of the order dated 12.04.2019 passed in the above criminal revision petition.

Learned counsel for the petitioner submits that during the pendency of the revision petition, the parties have entered into a compromise and a sum of Rs.1,30,000/- was agreed to be paid by the petitioner to the complainant and Rs.50,000/- in cash was paid on 12.04.2019. He submits that the remaining amount of Rs.80,000/- is being paid through the accompanying drafts.

On 03.12.2020, notice of the application (CRM-29339-2020) was issued to the complainant and today, learned counsel representing him does not oppose the prayer, who states that indeed as per compromise, the

agreed amount of Rs.1,30,000/- has been received. He further submits that since the payment has been made, therefore, some litigation expenses be also paid to the respondent (complainant). He on instructions states that the complainant has agreed to compound the offence.

In view of the above, both the applications are allowed.

Main case

Through this revision petition, the convict has challenged the Appellate Court judgment dated 15.11.2018, whereby the appeal filed by petitioner against the judgment of conviction and order of sentence dated 10.05.2017 passed by Judicial Magistrate First Class, Amritsar convicting him for commission of offence punishable under Section 138 Negotiable Instruments Act, 1881 was dismissed. The trial Court had imposed the sentence of rigorous imprisonment for a period of one year and further directed the convict to pay Rs.1,30,000/- as compensation to the complainant.

The facts in brief leading to the above revision petition are as under:-

Complainant (respondent No.2)- Gurjit Singh Sodhi brought a criminal complaint under Section 138 Negotiable Instruments Act, 1881 against accused/petitioner- Vijay Kumar, wherein it was alleged that in order to discharge the legal liability, accused had issued a cheque bearing No.812246 dated 25.06.2015 in favour of the complainant for a sum of Rs.2,00,000/- drawn at Canara Bank, Ranjit Avenue Branch, Amritsar. However, on presentation, the said cheque got dishonoured with remarks 'Refer to Drawer'. The complainant thereafter, issued the statutory notice dated 01.07.2015, however, despite that the payment was not made by the

accused, thereby compelling the complainant to institute the complaint seeking his prosecution for the above mentioned offence.

After conclusion of trial, trial Court vide its judgment dated 10.05.2017 held the accused guilty of the offence and imposed the sentence of rigorous imprisonment for a period of one year and further directed the convict to pay Rs.1,30,000/- as compensation to the complainant.

Aggrieved against the said judgment of conviction and order of sentence, an appeal bearing No.CRA-278-2017 was preferred and the same was also dismissed vide its impugned judgment dated 15.11.2018. Hence this revision petition.

Notice of motion in the petition was issued on 25.01.2019 and the said order reads as under:

“Learned counsel inter alia contends that the petitioner is now ready to compromise the matter with respondent No. 2- Gurjit Singh Sodhi (complainant). In order to show bona fides of the petitioner, learned counsel has brought Rs. 50,000/- in cash, in Court today for payment to the complainant-respondent No. 2.

Notice of motion to the respondents for 25.03.2019, through ordinary process, registered post and dasti as well, on furnishing of their correct addresses, process-fee, requisite number of copies of paper-book, registered covers and incidental expenses, if any, within a period of two weeks' from today.

In case of non-compliance of this order in its letter and spirit, this appeal would entail dismissal for want of prosecution.

Learned counsel for the petitioner is advised to keep the aforesaid cash amount with him for onward tendering the same to respondent No. 2-complainant, along with balance disputed amount and reasonable interest, on the

next date of hearing.”

Learned counsel for the petitioner has argued that the complainant has willingly entered into a compromise and the same is based on his free will and has accepted the amount of compensation awarded by the trial Court. He submits that the prayer for compounding the offence be accepted and the impugned judgment and conviction recorded by the trial Court and upheld by the Appellate Court be set aside.

At this stage, learned counsel for the complainant (respondent No.2) states that indeed the parties have arrived at a compromise and he has no objection in case the offence is ordered to be compounded.

Learned State counsel does not dispute the above fact.

Considering the nature of the offence, the stand of the parties and the fact that offence is compoundable, the prayer made on behalf of the parties to the petition is accepted and the judgment of conviction and order of sentence dated 10.05.2017, passed by the learned trial Court, and judgment dated 15.11.2018, passed by the Appellate Court, are hereby set aside and convict is relieved of all the consequences of the conviction.

It is further ordered that the petitioner shall pay a sum of Rs.10,000/- to the respondent-complainant towards the litigation expenses.

Disposed off.

Since the main case stands decided, the application for suspension of sentence is rendered infructuous.

(MANOJ BAJAJ)
JUDGE

12.01.2021

vanita	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No