

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

123

CRR No. 1403 of 2021(O&M)

Reserved on 10.11.2021

Pronounced on 17.11.2021

Shunty

.....Petitioner

Vs.

Amit Kumar

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Nitin Meel, Advocate for the petitioner.

Mr. Pransh Dhull, Advocate for the complainant.

ANOOP CHITKARA J.

Criminal Complaint	No.159-RT/2015 of 03.09.2014, under Section 138 of the Negotiable Instruments Act, Tehsil Rajpura, District Patiala
Criminal Appeal	CRA/0000278/2017, Additional Sessions Judge, District Patiala
Criminal Revision	CRR No.1403 of 2021

1. The petitioner, who stands convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (for short “NIA”) has come up before this Court under Section 482, Code of Criminal Procedure, (CrPC) for quashing the proceedings because the parties have compromised the matter.

2. The petitioner faced criminal prosecution by the private respondent, because of the dishonour of the cheque in question. The complainant alleged that a cheque drawn for Rs.1,70,000/- dated 07.08.2014 by the accused, which was handed over by him to the complainant in discharge of his legally enforceable liability did not honour. Afterthat the complainant issued a notice but despite that the accused did not discharge his liability. Feeling aggrieved, the complainant lodged prosecution by

filing a complaint under Section 138 of NIA. Vide above captioned judgment, learned Trial Court accepted the complaint; convicted and sentenced the accused vide judgment dated 23.02.2017 under Section 138 of NIA. Feeling aggrieved the convict filed an appeal before the Sessions Court. However, learned Sessions Court dismissed the appeal vide judgment dated 08.01.2021. Afterthat, the petitioner has filed the present Criminal Revision before this Court. As per annexure P-1 attached with the petition, it is stated that the convict and the complainant have entered into an out of Court compromise on 04.03.2021. When the matter was taken up, learned counsel for the complainant based on the instructions received in this regard submitted that the complainant has no objection, if the present Criminal Revision is allowed and the conviction and sentence is set aside because the matter has been compromised between them to their full satisfaction and there is no due towards the petitioner.

3. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honored. The legislative intention is not to make people suffer incarceration only because their cheque bounced. These proceedings are to execute the recovery of cheque amount by showing teeth of penalty loss.

4. Given the judgment passed by Hon'ble Supreme Court of India in Damodar S. Prabhu v SayedBabalal, (2010) 5 SCC 663, the law is well settled that when the entire money is paid, then the complainant cannot have any objection to such compromise, and 15% of the cheque amount is to be paid by the accused to the concerned State Legal Services Authority.

5. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the CrPC supported by Section 147 of the NIA is invoked to disrupt the prosecution and quash the proceedings mentioned above. The complaint, notice of accusation, and the proceedings captioned above are quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.

6. The amount of cheque in question was Rs. 1,70,000/- ,15% of which comes out to be Rs. 25,500/-. The petitioner shall deposit the amount of Rs. 25,500/-, on or before 31.12.2021 with the Punjab State Legal Services Authority, failing which this entire order, including compounding, shall automatically stand recalled under Section 362 CrPC, and this petition shall be posted for hearing on merits. However, in extraordinary circumstances, the petitioner may approach this Court for an extension of time to deposit the compounding fee. Petitioner to file the receipt in the Registry.

7. In the facts and circumstances peculiar to this case, the petition is allowed in the

aforementioned terms. Consequently, the above captioned complaint, notice of accusation, and all consequent proceedings are quashed. Accordingly, the petitioner is acquitted of the offence under Section 138 of the Act.

8. The petition stands allowed in the terms mentioned above. All pending applications are disposed of.

(ANOOP CHITKARA)
JUDGE

November 17, 2021
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Whether speaking/reasoned: **Yes.**
Whether reportable: **No.**