

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

Date of Decision:-**01.12.2021**
CRR-1447-2021 (O&M)

MOHINDER KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Saurabh Garg, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J. (Oral)

This order will dispose of the present criminal revision petition
filed by Mohinder Kumar (accused).

The brief facts of the case are that respondent No.2
(complainant) Arun Kumar filed criminal complaint under Section 138 of
Negotiable Instruments Act (in short 'NI Act') against the petitioner
regarding dishonour of cheque worth ₹1,00,000/- bearing No.479976 dated
22.2.2013. On completion of trial, the petitioner was convicted under
Section 138 of NI Act and sentenced to undergo simple imprisonment for a
period of 1 year and to pay compensation of ₹2,00,000/- and in default to

further undergo simple imprisonment for a period of 3 months vide judgment dated 10.1.2017 and order of sentence 11.1.2017.

Being aggrieved, the petitioner filed criminal appeal against the said judgment and order. After hearing both the parties, the Appellate Court dismissed the appeal filed by the petitioners vide judgment dated 15.9.2021.

Still being not satisfied, the petitioner has filed the present revision petition.

Upon notice of motion, Mr. Mukesh Pandit, Advocate presented his power of attorney on behalf of respondent No.2-Arun Kumar.

Along with the revision petition, an application under Section 147 of NI Act has been filed seeking compounding of offence under Section 138 of NI Act on the basis of compromise as has been stated by respondent No.2 in his affidavit dated 10.11.2021 (Annexure A-1).

Mr. Mukesh Pandit, Advocate for respondent No.2 has admitted the correctness of aforesaid compromise (affidavit, Annexure A-1), which is bearing signatures of respondent No.2-Mr. Arun Kumar. The counsel for the respondent No.2 further admitted that the cheque amount has already been accepted by the complainant and the matter has been compromised between the parties. He has no objection, if the offence punishable under Section 138 of NI Act is compounded.

In view of the compromise effected between the parties, this Court permits them to compound the offence punishable under Section 138 of NI Act by virtue of the provision of Section 147 of the NI Act.

Resultantly, in view of the compromise so effected, the net result would be to acquit petitioner-Mohinder Kumar.

Keeping in view the totality of the facts and circumstances and the fact that compromise has been effected between the parties, the present revision petition is hereby allowed and the impugned judgment and order of conviction passed by the trial Court and the Appellate Court dated 10.1.2017/11.1.2017 and 15.9.2021 respectively are hereby set aside and the petitioner-Mohinder Kumar is acquitted of the charge levelled against him. However, in the light of the law laid down by Hon'ble Apex Court **Damodar S. Prabhu vs. Sayed Babalal H., (2010)5 SCC 663**, the petitioner is directed to deposit an amount of ₹10,000/- with the Legal Services Authority of Punjab & Haryana High Court within 10 days from today. The receipt regarding deposit of the said amount be submitted in the Registry of this Court within aforesaid stipulated period.

Petitioner-Mohinder Kumar, who is stated to be behind the bars is hereby ordered to be set at liberty at once, if not required in any other criminal case.

(KARAMJIT SINGH)
JUDGE

01.12.2021
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No