

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRR-2566 of 2019 (O&M)
Date of Decision : 25.08.2021

Baljinder Singh

...Petitioner

Versus

Rajinder Kumar

...Respondent

(Through video conferencing)

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. K.S. Sidhu, Advocate for the petitioner.

Mr. Rahul Sachdeva, Advocate for the respondent.

Harsimran Singh Sethi, J. (Oral)

CRR-2566 of 2019

Custody certificate filed in the Court today is taken on record.

The present criminal revision petition has been filed for setting aside order dated 16.11.2016 passed by the learned Judicial Magistrate 1st Class, Abohar and order dated 04.09.2019 passed by the learned Additional Sessions Judge, Fazilka.

After the notice of motion was issued by this Court on 30.09.2019, a criminal miscellaneous application being CRM-40131 of 2019 has been filed under Section 320(6) read with Section 482 Cr.P.C by the petitioner seeking permission for compounding the offences under Section 138 of the Negotiable Instruments Act, 1881 as the matter was amicably settled between the parties.

The Coordinate Bench of this Court had passed the following order in CRM-40131 of 2019 on 20.12.2019 :-

“This application has been filed under Section 320(6) read with Section 482 Cr.P.C. seeking permission for compounding the offences under Section 138 of the Negotiable Instruments Act, 1881 as the matter has been amicably settled between the parties.

Learned counsel for the petitioner submits that earlier the petitioner was released on interim bail for a period of 4 weeks vide this Courts' order dated 23.10.2019 and he had surrendered before the jail authorities after completion of the stipulated period.

Since the parties are compromising the dispute, therefore, it would not be unjustified if the petitioner is ordered to be released on interim bail by temporarily suspending his sentence.

Accordingly, it is ordered that the petitioner be released on interim bail on his furnishing bail bonds/surety to the satisfaction of the trial Court/Duty Magistrate till the next date of hearing.

Let the parties now appear before the trial Court/Illaqa Magistrate on 9.1.2020 or any other date convenient to the Court for recording their statements with regard to compromise. The trial Court/Illaqa Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The trial Court/Illaqa Magistrate is also directed to send a report along with statements of the parties with regard to validity

or otherwise of the compromise effected between the parties before the next date of hearing. It shall also be reported whether petitioners have been declared proclaimed offenders in this case or not.”

A report has come from Judicial Magistrate 1st Class, Abohar, addressed to the Registrar General of this Court dated 14.01.2020, along with the statements of the accused-petitioner as well as the complainant, which have been recorded. As per the said report, the compromise between the parties is genuine, voluntary and without any coercion or undue influence and none of the accused has been declared as proclaimed offender and no other criminal proceedings are pending against them.

Learned counsel for respondent-complainant admits the compromise as well as the statements made before the Judicial Magistrate 1st Class, Abohar and does not raise any objection, in case the offence, for which, the petitioner has been charged is compounded.

As per Section 320(6) of the Cr.P.C, the High Court or the Court of Sessions, as the case may be, even while exercising the powers of revision as envisaged under Section 401 of Cr.P.C can compound the offence. In the present case, it is not disputed by the respondent that the offence, for which, the petitioner has been charged and convicted is compoundable. Once, the parties have amicably resolved their dispute and the respondent has already stated before this Court that the petitioner has discharged his liability to his satisfaction and the learned Counsel appearing for the respondent raises no objection to the prayer of the petitioner for compounding the offence, it is a fit case, where this Court needs to exercise the jurisdiction of compounding of offence. Accordingly, keeping in view

the facts and circumstances noticed hereinbefore, the present revision petition is accepted and the offence, for which, the petitioner is charged is compounded and the judgment dated 16.11.2016 passed by the Judicial Magistrate 1st Class, Abohar and judgment dated 04.09.2019 passed by the learned Additional Sessions Judge, Fazilka are set aside and the petitioner is ordered to be acquitted.

CRMs-40131 and 30565 of 2019

Applications stand disposed of keeping in view the order passed in the main criminal revision petition.

August 25, 2021*aarti***(HARSIMRAN SINGH SETHI)****JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*