

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

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**CRR-2832-2019 (O&M)
Date of decision: 24.03.2021**

Harcharan Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Inderjit Sharma, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for respondent No.1-State.

Mr. Karan Choudhary, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through vide conferencing.

CRM-33390-2019

For the reasons mentioned in the application, the same is allowed and the applicant/petitioner is exempted from filing certified/typed copies of judgments passed by both the Courts below as well as grounds of criminal appeal before lower Court and photocopies of the same are taken on record.

CRM-9367-2021

The applicant/petitioner has filed the present application under Section 320 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') read with Section 147 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') for grant of permission to compound the offence.

Respondent No.2 filed *Complaint No.16 of 2014 titled as 'Balwinder Singh Vs. Harcharan Singh'* alleging dishonour of cheque No.024439 dated 25.11.2013 for Rs.9,00,000/-, issued by the petitioner-accused in discharge of subsisting legal liability, with remarks 'Account Closed' and non-payment of the amount of the cheque

by the petitioner-accused within 15 days from receipt of notice. The petitioner-accused was convicted under Section 138 of the N.I. Act vide judgment of conviction and order or sentence both dated 02.02.2016 passed by learned Judicial Magistrate First Class, Gurdaspur. The appeal filed by the petitioner-accused was dismissed by learned Additional Sessions Judge, Gurdaspur vide judgment dated 16.09.2019. Feeling aggrieved the petitioner filed present revision petition against the same.

During pendency of the revision petition, the parties have compromised and the have filed present joint application for grant of permission to compound the offence.

The application has been filed on the grounds that now the matter has been settled between the parties and respondent No.2-complainant is not interested to pursue the case. The parties have accordingly prayed for grant of permission to compound the offence.

Learned State Counsel has no objection if the application for permission to compound the offence is allowed.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent-complainant and gone through the relevant record.

Offence punishable under Section 138 of the N.I. Act is compoundable under Section 147 of the N.I. Act.

In ***JK Industries Limited and others Vs. Amarlal V. Juman and another : 2012(1) R.C.R.(Criminal) 822*** it was held by Hon'ble Supreme Court that the basic procedure of compounding an offence laid down in Section 320 of the Cr.P.C. will apply to compounding of an offence under the N.I. Act.

Section 320(6) of the Cr.P.C. empowers the High Court acting in exercise of its powers of revision under section 401 to allow any person to compound any offence which such person is competent to compound under Section 320 of the Cr.P.C.

The petitioner-accused and respondent No.2-complainant have compromised and settled the dispute between them. Compromise will restore cordial relations between the parties and will also contribute to peace and harmony in the society. Therefore, application

is allowed and permission to compound the offence is granted.

Learned Counsel for the petitioner-accused has also made an oral request for reducing the costs payable in view of judgment of Hon'ble Supreme court in ***Damodar S. Prabhu Vs. Sayed Babalal H. : 2010(5) SCC 663*** on the grounds that due to detention in custody and restrictions imposed to prevent spread of infection of Covid-19, the petitioner/accused is in difficult financial conditions.

In ***Damodar's Case (Supra)*** Hon'ble Supreme Court observed that if the application for compounding the offence is made before the High Court in revision petition, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of cost. In ***Madhya Pradesh State Legal Services Authority Vs. Prateek Jain : 2015 (1) SCC (Civil) 74*** Hon'ble Supreme Court observed that despite the above-said guidelines issued by Hon'ble Supreme Court the Court has discretion to reduce or even waive off the costs.

In view of the facts and circumstances of the case including financial difficulties of the petitioners-accused, I am of the considered view that the oral request of learned Counsel for the petitioner deserves to be allowed for reduction of costs but no case for complete waiver of the costs is made out. Accordingly, costs of Rs.1,35,000/- payable by the petitioner-accused in view of judgment of Hon'ble Supreme court in ***Damodar's Case (Supra)*** are reduced to amount of Rs.67,500/-.

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Compromise deed entered into between the parties is accepted and the petitioner-accused is acquitted of the offence punishable under Section 138 of the N.I. Act in terms of the compromise and judgment dated 16.09.2019 passed in appeal by learned Additional Sessions Judge, Gurdaspur and judgment of conviction and order of sentence both dated 02.02.2016 passed by learned Judicial Magistrate First Class, Gurdaspur are set aside subject to the condition that the petitioner-accused shall deposit amount of Rs.67,500/- with High Court Legal Services Committee within 15 days from the date of this order.

The revision petition is allowed accordingly and the petitioner is ordered to be set at liberty in this case.

In case of failure of the petitioner to deposit the amount as ordered above, this order shall stand annulled and in such an eventuality the revision petition be put up immediately on judicial side for further proceedings and appropriate orders.

On such deposit, the receipt regarding deposit of the amount be placed on record of the case.

CRM-33392-2019

In view of the composition of the offence and consequent acquittal of the petitioner, the present application for suspension of sentence has become infructuous.

Accordingly, the present application is disposed of as having become infructuous.

(ARUN KUMAR TYAGI)
JUDGE

24.03.2021
Kothiyal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No