

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

229-A

**CRR-3130-2019 (O&M)
Date of decision: 08.02.2021**

M/s K.R. Punni Agriculture Works and anotherPetitioners

Versus

M/s Pakho Ball Bearing and Belt StoreRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Amaninder Preet, Advocate
for the applicants/petitioners.

Ms. Nitika Jaura, Advocate
for the respondent.

ARUN KUMAR TYAGI, J (ORAL)

CRM-1484-2021

The applicants/petitioners have filed the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for pre-ponement of the date i.e. 03.05.2021 fixed in the main case to some early date i.e. prior to 22.01.2021 as the parties have compromised the matter and the petitioners have paid the entire amount of cheque in question and parole of the petitioner is going to expire on 22.01.2021.

Learned Counsel for the respondent has no objection if the application is allowed.

In view of the reasons mentioned in the application and no objection by learned Counsel for the respondent, the application qua prayer for earlier hearing is allowed and the main case is pre-poned for today.

CRM-1483-2021

For the reasons mentioned in the application, the same is allowed and the applicants/petitioners are exempted from filing certified/typed copy of compromise dated 14.01.2021 which is taken on record as Annexure A-1.

CRM-1485-2021

The applicants/petitioners have filed the present application under Section 320 read with Section 482 of the Cr.P.C. with Section 147 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') for grant of permission to compound the offence.

Briefly stated the facts giving rise to the filing of the present application are that respondent No.2 filed *Complaint NACT No.443 of 2013 titled as 'M/s Pakho Bearing and Belt Store Vs. M/s KR Punni Agriculture Works and another'* on the ground of dishonour of cheque No.437639 dated 25.09.2012 for Rs.2,00,000/- issued by the petitioners-accused in discharge of subsisting legal liability with remarks 'insufficient funds' and non-payment of the amount of the cheque by the petitioners-accused within 15 days from receipt of notice. The petitioner No.2-Karamjit Singh was convicted under Section 138 of the N.I. Act vide judgment of conviction and order or sentence both dated 30.08.2019 to undergo rigorous imprisonment for a period of one year and six months and to pay amount of Rs.2,00,000/- as compensation. The appeal filed by the petitioners-accused was dismissed by learned Sessions Judge, Barnala vide judgment dated 18.10.2019. During pendency of the revision petition, the parties have compromised and the petitioners-accused have filed present 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. Respondent-complainant has received entire cheque amount from the petitioners-accused and has no objection in case the petitioners-accused are acquitted of the offence. The petitioners-accused have accordingly prayed for grant of permission to compound the offence.

Learned Counsel for the respondent-complainant has admitted the factum of compromise.

I have heard learned Counsel for the petitioners 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 ***JIK Industries Limited and others Vs. Amarlal V. Jumani 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 Section 141 of 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 petitioners-accused and respondent-complainant have compromised and settled the dispute between them. Respondent-complainant has already received the amount of the cheque from the petitioners-accused. 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 petitioners-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 the petitioners/accused are 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 application deserves to be allowed for

reduction of costs but no case for complete waiver of the costs is made out. Accordingly, costs of Rs.30,000/- payable by the petitioners-accused in view of judgment of Hon'ble Supreme court in ***Damodar's Case (Supra)*** are reduced to amount of Rs.15,000/-.

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Compromise deed entered into between the parties is accepted and in view of the compromise, the petitioners-accused are acquitted of the offence punishable under Section 138 of the N.I. Act in terms of the compromise deed and judgment dated 18.10.2019 passed in appeal by learned Sessions Judge, Barnala and judgment of conviction and order of sentence both 30.08.2019 passed by learned Judicial Magistrate First Class, Barnala are set aside subject to the condition that the petitioners-accused shall deposit amount of Rs.15,000/- with High Court Legal Services Committee within 10 days from the date of this order. On such deposit, the receipt be placed on record of the case.

The revision petition is allowed accordingly and petitioner No.2-Karamjit Singh is ordered to be set at liberty/released in **this** case.

(ARUN KUMAR TYAGI)
JUDGE

08.02.2021

Kothiyal

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