

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

**CRM-34000-2022 in
CRR-161-2022 (O& M)
Date of decision:31.10.2022**

Rajnish Dureja

.... Petitioner

V/s

Parveen Goyal and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parminder Singh, Advocate,
for the applicant-petitioner.

Ms. Kamlesh, Advocate,
for Mr. Sukhdeep Singh, Advocate,
for respondent No.1.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana,
for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

CRM-2154-2022 and CRM-7826-2022

Allowed as prayed for.

CRM-34000-2022

This is an application under Section 147 of the Negotiable Instruments Act, 1881 for compounding of the offences as the matter has been compromised between the parties.

In view of the prayer made in the aforesaid application, the same is allowed.

CRR-161-2022 (O & M)

The present revision petition has been filed against the

which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 05.05.2018/07.05.2018 passed by the learned Judicial Magistrate, 1st Class, Karnal, has been dismissed.

2. Briefly, the facts of the case are that the accused/petitioner had friendly relations with the complainant/respondent and he borrowed a sum of Rs.1,20,000/- on interest @18% per annum with a promise to repay the same within a period of 06 months, but he (petitioner) did not pay the same within the stipulated period. In order to discharge the above said legal liability, the accused issued a cheque bearing No.967642 dated 22.04.2017 amounting to Rs.1,32,000/- drawn at Canara Bank, Karnal, out of his account No.2046101055851 in favour of the complainant. The complainant presented the aforesaid cheque through his banker, but the same was returned to the complainant vide memo dated 25.04.2017 with the remarks "Funds Insufficient". The complainant asked the accused to make this payment on various occasions, but he (accused-petitioner) did not pay any heed and lingered on the request of the complainant. The accused was duly served with a legal notice dated 02.05.2017 by the complainant through his counsel but the accused failed to make the payment of the dishonoured cheque within the stipulated period of 15 days of the receipt of the legal notice duly dispatched by registered post.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face Trial. The evidence was led and ultimately, he was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo

equivalent to cheque amount of Rs.1,32,600/- to the complainant. In default of payment of compensation, he was to further undergo rigorous imprisonment of 04 months.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Sessions Judge, Karnal, which came to be dismissed on 12.01.2022.

Still aggrieved, the present revision petition has been preferred by the petitioner.

5. During the pendency of the present criminal revision petition, a compromise dated 30.08.2022 (Annexure P-2) has been effected stating that the matter has been settled amicably to the entire satisfaction of both the parties. Both the parties have agreed to relinquish all their rights arising out of this matter. It would be relevant to mention here that a reading of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. would show that where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for the complainant-respondent has accepted the factum of compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

7. I have heard the learned counsel for both the parties.

8. Similarly, this Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-

"4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-

"Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

9. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

10. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

11. Accordingly, the revision petition is allowed and the order dated 12.01.2022 passed by the Sessions Judge, Karnal and the judgment of conviction and order of sentence dated 05.05.2018/07.05.2018 passed by the Judicial Magistrate, 1st Class, Karnal, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act. If the petitioner is still in custody, he shall be released forthwith unless his custody is required in another case.

CRM-2159-2022

Since the main revision petition has been allowed, no order
needs to be passed on this application.

(JASJIT SINGH BEDI)
JUDGE

October 31, 2022
sukhpreet

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