

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

Criminal Revision No.295 of 2022(O&M)

Date of Decision: May 16, 2022

Rajwant Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Rishu Mahajan, Advocate
for the petitioner.

Mr.R.S.Khaira, AAG, Punjab
for respondent No.1.

Ms.Sukhpreet kaur, Advocate
for complainant – respondent No.2.

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HARINDER SINGH SIDHU, J.

CRM-5447-2022 :

This is an application for condonation of delay of 2527 days in filing the revision petition.

It is pleaded that the petitioner is a lady, aged about 61 years. She is not keeping good health. She was convicted and sentenced to undergo Simple Imprisonment for One Year under Section 138 of the Negotiable Instruments Act, 1881, on account of dishonour of her cheque No.904159 dated 25.11.2007 for Rs.65,000/- drawn on Punjab and Sind Bank, Kot Mangal Singh, Amritsar.

Ld. counsel for the applicant – petitioner contends that after

conviction, the petitioner paid the amount of cheque to the complainant. Thereafter, she remained under the impression that all proceedings have come to an end after the payment. It was only after the Police raided her house that she came to know about the conviction having not been set aside automatically even despite payment. In the circumstances, the inordinate delay has been caused in filing the Revision Petition.

Having heard the Ld. counsel for the petitioner and considering the peculiar circumstances of the case, the delay in filing the revision is condoned.

CRR-295-2022 (O&M) :

Notice of motion.

Mr.R.S.Khaira, AAG, Punjab and Ms.Sukhpreet Kaur, Advocate, have accepted notice on behalf of respondent No.1 and 2, respectively.

By filing the present revision, the petitioner has challenged the judgment of conviction and order of sentence dated 30.04.2011 passed by Judicial Magistrate Ist Class, Amritsar in Complaint Case No.597-A of 31.3.2008/2011 titled 'Mohan Singh vs. Rajwant Kaur', whereby she has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo Simple Imprisonment for a period of One Year and to pay Fine of Rs.2000/-. Challenge is also to the judgment dated 14.02.2013 passed by Additional Sessions Judge (Adhoc), Fast Track Court, Amritsar, whereby, the appeal of the petitioner was dismissed.

Ld. Counsel for the petitioner has stated that the matter has now been compromised between the parties. The Compromise dated 13.08.2016

executed between petitioner Rajwant Kaur and respondent No.2 Mohan Singh has been annexed as Annexure P-1. It is stated in the compromise the petitioner has paid the cheque amount of Rs.65,000/- to the complainant, who has accepted the same as full and final settlement of the amount receivable from the petitioner. It is further recorded that to maintain harmony and brotherhood, the compromise has been arrived at between the parties amicably and voluntarily with due intervention of the respectables of the Society. The complainant – respondent has further stated that he has no grudge against the petitioner – accused and that he has no objection in case the judgment and orders of both the courts below qua conviction and sentence of the petitioner are set aside and she is acquitted by this Court pursuant to the compromise.

Ld. Counsel for respondent No.2 – complainant has affirmed the factum of the aforesaid compromise and that he has no objection if the petitioner is acquitted.

Ld. Counsel for the petitioner relying on the decision of the Hon'ble Supreme Court in **Damodar S.Prabhu vs. Sayed Babalal H. 2010(5) SCC 663**, has argued that compounding of offence under Section 138 of the Negotiable Instruments Act can be permitted at the appellate or revisional stage. As per the guidelines laid down In **Damodar S.Prabhu's** case if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs to be deposited with the Legal Service Authority operating at the level of the Court where the compounding takes place. In the present case 15%

of the cheque amount of Rs.65,000/- is Rs.9750/-. However, Ld. Counsel for the petitioner has agreed to pay Rs.10,000/- as costs.

Accordingly, the revision is allowed. The impugned judgments of conviction and order of sentence passed by the Courts below are set aside. The petitioner is acquitted of the charges. The costs of Rs.10,000/- be deposited with the Punjab State Legal Services Authority, Sahibzada Ajit Singh Nagar, Punjab within Two Months from today.

May 16, 2022

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(HARINDER SINGH SIDHU)

JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No