

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.-508-2020(O&M)
Reserved on: 08.04.2022
Pronounced on: 18.04.2022

Ashu Poultries & another
...Petitioner(s)
Versus
M/s Longowal Enterprises & another
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Vaibhav Sharma, Legal Aid Counsel
for the petitioner(s).

Mr. Amandeep Bindra, Advocate
for the complainant.

Mr. Rajat Gautam, DAG, Haryana

ANOOP CHITKARA, J.

Criminal Complaint	No. 11864/2015,under Section 138 of the Negotiable Instruments Act, District Panchkula. Decided on: 12.3.2018.
Criminal Appeal	No. 897/2018, Additional Sessions Judge, District Panchkula. Decided on: 7.2.2020.

The petitioners, who stand convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (NIA) have filed the above captioned revision petition before this court.

2. Vide order dated 2nd March, 2020, Ld counsel for the parties informed the court that the matter has been compromised out of court and based on such statement the court suspended the execution of sentence and also directed to deposit 15% of the cheque amount to the High Court Legal Services Committee by 30th April, 2020.
3. During the course of arguments, the complainant handed over a settlement deed dated Nov. 18, 2020, as per which the matter stood compromised and resolved in terms of the deed. The original settlement deed is taken on record in connected case i.e.CRR-504-2020.

4. Due to the non-representation of the petitioners, this court had appointed a legal aid counsel and proceeded with the matter. Ld. Legal Aid counsel submits that in case the 15% compensation amount could not be deposited, then in such a situation, the time to do so may be extended and also prayed that in case it is beyond the financial capacity of the petitioner to pay the 15% amount. It may be dispensed with or reduced after considering the petition's paying capacity, family, and financial liabilities.

5. Ld. counsel for the complainant stated on instructions that the matter was compromised on 18-11-2020 and the entire money has been received.

6. The petitioner faced criminal prosecution by the private respondent because of the dishonor of the cheque in question. Thus, the opposition of the State's counsel to this compromise is formal.

7. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honoured. The legislative intention is not to make people suffer incarceration only because their cheques bounced. These proceedings are to recover the cheque amount by showing teeth of a penal clause.

8. Given the judgment passed by Hon'ble Supreme Court of India in Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663, the law is well settled that when the entire money is paid, then the complainant cannot have any objection to such compromise, and 15% of the cheque amount is to be paid by the accused to the concerned State Legal Services Authority.

9. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the CrPC supported by Section 147 of the NIA is invoked to disrupt the prosecution and quash the proceedings mentioned above. The complaint, notice of accusation, and the proceedings captioned above are quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.

10. The amount of cheque in question was Rs. 2,96,730/-, 15% of which comes out to be Rs.44,509/-. This compounding is subject to the petitioner depositing the amount of Rs.44,509/- on or before 30th June, 2022, with the concerned wing of High Court Legal Aid, failing which this entire order, including compounding, shall automatically stand recalled under Section 362 and Section 482 CrPC, and this petition shall be posted for

hearing on merits.

11. In case, after taking into account the family and financial liabilities, it is beyond the petition's financial capacity to pay the 15% amount, then in such a situation, it shall be open for the petitioners to apply to section 482 CrPC by placing on record the bank statements from 01 April 2020 till the date of all bank accounts, all fixed deposits, DEMAT account numbers, the current market value of jewelry, sovereign metals, all precious articles, held either individually or jointly, and cash-in-hand. After analyzing the petition's paying capacity, the court shall consider reducing or dispensing with 15% of the amount mentioned earlier.

12. In extraordinary circumstances, the petitioners may approach this Court for an extension of time to deposit the compounding fee. Petitioners to file the proof of deposit before the trial Court within the aforementioned time. Consequently, the above-captioned complaint, notice of accusation, and all consequent proceedings would also stand quashed qua the petitioners, and the petitioners would also stand acquitted of all the offences captioned above. All pending applications are closed. On failure to comply with the conditions mentioned above, the petition shall be listed for a final hearing, and the quashing order shall automatically stand recalled without any further reference to this Court.

Petition allowed in the terms mentioned above.All pending applications, if any, stand closed.

(ANOOP CHITKARA)
JUDGE

April 18th, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.