

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

243

CRR-579-2020 (O&M)

Date of Decision: 01.04.2022

SATPAL GARG

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. RS Randhawa, Advocate with
Ms. Malvi Aggarwal, Advocate
for the applicant-petitioner.

Mr. Harbir Sandhu, AAG Punjab.

Mr. SS Sandhu, Advocate
for respondent No.2.

HARNARESH SINGH GILL, J.(Oral)

In a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short N.I. Act), the Judicial Magistrate, 1st Class, Barnala, vide judgment of conviction and order of sentence dated 06.11.2017, found the petitioner guilty for the offence punishable under Section 138 of the NI Act, and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a compensation to the tune of Rs.67,500/ i.e. one and half the cheque amount.

Aggrieved there against, the petitioner preferred an appeal before the learned Sessions Judge, Barnala, which was dismissed vide impugned judgment dated 05.12.2019.

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

Learned counsel for the petitioner submits that a compromise dated 01.03.2022 has been effected between the parties whereby the petitioner has agreed to pay the compensation amount to the tune of Rs.67,500/- and respondent No.2/complainant, namely, Sanjiv Kumar, has acceded to the same and he has no objection if the offence is compounded.

Learned counsel for respondent No.2 does not dispute the factum of the compromise effected between the parties.

Learned counsel for the petitioner and learned counsel for respondent No.2, are *ad-idem* and submit that as the matter stands compromised, the necessary permission may be granted to the parties to compound the offence under Section 138 NI Act in view of the law laid down by the Hon'ble Supreme Court in Damodar S. Prabhu vs. Sayed Babalal H, 2010 (2) RCR (Criminal) 851; the impugned judgments and order passed by the learned trial Court and the learned Appellate Court may be set aside and the petitioner c be acquitted of the notice of accusation served upon him.

I have heard the learned counsel for the parties.

In the present case, the cheque amount is Rs.45,000/-. In view of the law laid down in Damodar S. Prabhu's case (*supra*), compounding of the present offence can be allowed provided the petitioner-accused pays 15% of the cheque amount by way of costs. On calculation, 15% of the cheque amount comes to be Rs.6,750/-.

As noticed above, the parties have settled the dispute by way of compromise dated 01.03.2022. Thus, this Court grants

permission to compound the offence punishable under Section 138 NI Act.

In view of the above, the impugned judgment of conviction and order of sentence dated 06.11.2017 passed by the learned Judicial Magistrate, 1st Class, Barnala and the judgment dated 05.12.2019 passed by the learned Sessions Judge, Barnala, are set aside; the complaint under Section 138 NI Act stands dismissed and the petitioner stands acquitted of the notice of accusation served upon him. The petitioner be released forthwith in this case, if not required in any other case, subject to him depositing the costs of Rs.6,750/- with the Punjab State Legal Services Authority, in view of the law laid down by the Hon'ble Supreme Court in Damodar S. Prabhu's case (supra), within 15 days from the receipt of the certified copy of this order.

The present petition is allowed in the aforementioned terms.

Needless to say that the parties shall remain bound by the terms and conditions of the compromise.

01.04.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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