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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision:02.03.2022

1. CRM-M-37149-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
2. CRM-M-36910-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
3. CRM-M-37715-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
4. CRM-M-37749-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
5. CRM-M-37747-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
6. CRM-M-37755-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
7. CRM-M-37824-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents
8. CRM-M-37831-2018 (O&M)

Vishwanath Jha

..Petitioner

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajesh Lamba, Advocate for petitioner.
Mr. Vishal Malik, DAG, Haryana.
None for respondent No.2.

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Manoj Bajaj, J. (Oral)

The petitioner/convict has filed these separate petitions under Section 482 Cr.P.C. read with Section 147 Negotiable Instruments Act, 1881 seeking leave of this Court for compounding the offence punishable under Section 138 Negotiable Instruments Act, 1881, arising out of respective complaint Nos.934, 930, 931, 933, 926, 929, 935 and 932 dated 07.07.2014 on the basis of compromise dated 21.08.2018 (Annexure P-5), with the complainant (respondent No.2).

On 08.10.2018, this Court had passed the following order:

“Learned counsel for the complainant submits that the matter has since been amicably settled and as per settlement, entire payment has been made to the complainant vide cheque/draft, copies of which have been placed on file.

Learned counsel for the petitioner has relied upon the observations of the Hon'ble Gujrat High Court in the case of Kirpalsingh Pratapsingh Ori. Versus Balvinder Kaur Hardipsing Lobana, 2004, Criminal Law Journal, 3786, in support of its contention that the matter can be compromised at any stage even after dismissal of the revision petition.

Learned counsel for the petitioner seeks adjournment to deposit 15% of the cheque amount as per observations of the Hon'ble Apex Court in the case of Damodar S. Prabhu vs. Sayed Babalal H. (2010) 5 SCC 663, within a period of 10 days.

List on 22.10.2018.

In the meanwhile, the sentence of the petitioner shall remain suspended on his furnishing adequate security bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

Copy of this order be placed on the files of other connected matters.”

Thereafter, on 21.11.2018, this Court while noticing the compliance of the above order, summoned the lower Court record. Finally, when the above cases were heard on 27.11.2019, learned counsel for the petitioner referred to the sole ground of compromise to assert that the necessary compliance required for compounding the offence stands made and prayed that the petitioner be allowed to compound the offence. The

prayer was not opposed on behalf of the complainant.

Considering the only stand of the parties relating to compromise, this Court accepted the prayer for compounding the offence and announced the petition(s) as allowed, but later while dictating the judgment, it was noticed that in the subject complaints, conviction of the petitioner recorded by trial Court through judgment dated 21.04.2016 had attained finality. Here it is relevant to note that the convict had previously preferred revision petition(s) before this Court to challenge the appellate Court's judgment dated 3.10.2017 affirming the trial Court verdict, and the same were dismissed on 29.05.2018 and further, against this decision, the respective SLPs filed by convict were also dismissed on 13.08.2018 (Annexure P-4). Strangely, this material fact was not brought to the notice of this Court at the time of hearing, therefore, on 27.11.2019 itself, the order allowing the petition(s) was recalled and the cases were ordered to be listed for re-hearing on 02.12.2019.

Learned counsel for the parties appeared before this Court on 02.12.2019 and on their request, the case was further adjourned to 12.12.2019, however, Mr. Rajesh Lamba, learned counsel for the petitioner drew the attention of the Court to the Supreme Court decision (Annexure P-4) and stated that indeed the conviction of the petitioner stands upheld upto the Apex Court. Thereafter, the matter was not listed because of breakout of pandemic Covid-19.

Today, during the course of hearing, Mr. Rajesh Lamba, learned counsel for the petitioner fairly concedes that the conviction of the petitioner had attained finality by virtue of the order dated 13.08.2018 passed by Hon'ble the Supreme Court, much before the filing of these

petition(s) on the basis of compromise. It is also conceded by him that no application was filed before the Hon'ble Supreme Court after compromise between the parties for seeking permission to compound the offence. Thus, when confronted with the maintainability of the petitions, learned counsel for the petitioner seeks permission of this Court to withdraw these petitions in order to avail the appropriate remedy in accordance with law.

The prayer is accepted.

The petitions are ordered to be dismissed as withdrawn.

Since the prayer for compounding of the offence is not being pressed by the learned counsel for the petitioner, the 15 % of the cheque amount deposited by the petitioner in compliance of the order dated 08.10.2018 be refunded to the petitioner. It is further directed that the petitioner shall surrender forthwith before the District Prison, Faridabad to serve the sentence.

02.03.2022

Jasmine Kaur

(MANOJ BAJAJ)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No