

CRR No. 732 of 2021 (O&M)

Date of Decision: 05.01.2022

Shiv Kumar

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Abhimanyu Singh, Advocate,
for the petitioner.

Mr. Munish Sharma, A.A.G., Haryana.

Mr. L.K. Gollen, Advocate,
for respondent no. 2.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 20.07.2021, the following order had been passed by this
court:-

“Vide this petition, the petitioner impugns the judgments and orders of the learned JMIC, Bhiwani, and the learned Addl. Sessions Judge, Bhiwani, dated 12.07.2019 and 14.07.2021 respectively, by which he has been convicted for the commission of an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to undergo one years' imprisonment, as also to pay a compensation of Rs.50,000/- in addition to the cheque amount of Rs.2,00,000/-.

Learned counsel submits that in fact the matter has since been settled between the petitioner and

respondent no.2, i.e. the complainant, with a demand draft for an amount of Rs.2,00,000/- having been got issued by the petitioner, favouring respondent no.2 (Devender Singh), a photocopy of which has been annexed as Annexure P-1 with the petition.

Notice of motion.

Mr. Munish Sharma, learned AAG, Haryana, accepts notice at the asking of the court on behalf of respondent no.1, with Mr. L.K. Gollen, Advocate, appearing for respondent no.2 and also accepting notice.

He does not dispute the factum of the settlement reached between the parties. (Though he is stated to have sent a power of attorney executed in his favour by way of a "Whatsapp" communication to the Reader of this court, however, obviously, he would be required to file it in the Registry).

In the meanwhile, in view of the above, notice is also issued in CRM-21413 of 2021, with Mr. Sharma accepting notice at the asking of the court in that application also, (as does Mr. Gollen), the said application being one seeking suspension of the sentence of the applicant-petitioner during the pendency of the present petition.

In the aforesaid circumstances, the remaining sentence of the applicant-petitioner shall remain suspended till the next date of hearing, upon him furnishing adequate bail bonds and surety bonds to the satisfaction of the CJM/Duty Magistrate, Bhiwani.

The petitioner and the complainant would also appear before that court to record their statements in respect of the compromise reached between them, with that court to send its report to this court before the

next date of hearing here, also giving its own assessment as to whether the compromise arrived at between the parties is of their own free will or otherwise.

Adjourned to 13.09.2021.”

Pursuant thereto, the report of the learned Chief Judicial Magistrate, Bhiwani, dated 13.08.2021, has been received, stating to the effect that the parties appeared before that court on 12.08.2021 and recorded their statements to the effect that the matter has been compromised between them and that an amount of Rs. 2,00,000/- has been paid by the accused to the complainant, (i.e. the petitioner to respondent no. 2).

The original statements (in Hindi) have also been annexed with the report.

That being so, the petitioner having been convicted for the commission of an offence punishable under the provisions of Section 138 of the Negotiable Instruments Act, 1881, and with the said offence being a compoundable offence in terms of the provisions of Section 147 of that Act, the petition is allowed with the impugned judgments of the learned appellate court and the trial court set aside and the petitioner acquitted of the charges framed against him.

January 05, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.