

**(106) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR-273-2016 (O&M)
Date of Decision: 16.09.2022**

LILU RAM

... Petitioner

Versus

STATE OF HARYANA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.S. Sahu, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

Mr. Rajesh Lamba, Advocate for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the order dated 23.12.2015 passed by the learned Additional Sessions Judge-I, Fatehabad, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 20.01.2015 passed by the learned Chief Judicial Magistrate, Fatehabad, has been dismissed.

2. The brief facts of the case are that the petitioner/accused borrowed Rs.1,39,000/- from respondent No.2-complainant. When respondent No.2-complainant requested him to return the amount, the petitioner/accused issued cheque No.019073 dated 07.09.2012 for Rs.1,39,000/- of account No.093201502938 of ICICI Bank Branch Fatehabad and assured that as and when cheque would be presented, it would be

encashed. Respondent No.2-complainant presented the cheque to his banker Canara Bank, Branch Fatehabad for clearance of the same, but the cheque was returned back with the remarks "Payment stopped by drawer" vide memo dated 11.09.2012. On 22.09.2012, complainant served legal notice on the petitioner/accused through his counsel Sh. P.S. Malhotra, Advocate calling upon him to make payment of Rs.1,39,000/- within 15 days from receipt of the notice. But despite that the accused did not make the payment of the cheque in question within the stipulated period.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face trial. The evidence was led and ultimately, he was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo rigorous imprisonment for a period of 01 year and pay the cheque amount of Rs.1,39,000/- as compensation.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Additional Sessions Judge-I, Fatehabad, which came to be dismissed on 23.12.2015.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of this petition, the matter was referred to the Mediation and Conciliation Centre of this Court and as per the report dated 03.08.2022, a settlement has been arrived at between them on 27.07.2022. It would be relevant to mention here that a reading of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. would show that where a settlement has been effected, the offence under Section

138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for the complainant-respondent has accepted the factum of compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

7. I have heard the learned counsel for both the parties.

8. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

9. The admitted position is that the matter stands settled and the settlement agreement between the parties dated 27.07.2022 is already on record. This Hon'ble Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-

“4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-

“Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

10. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

11. Accordingly, the revision petition is allowed and the order dated 23.12.2015 passed by the learned Additional Sessions Judge-I, Fatehabad and the judgment of conviction and order of sentence 20.01.2015 passed by the learned Chief Judicial Magistrate, Fatehabad, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

16.09.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No