

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

CRR-4212-2016
Date of Decision: 15.09.2022

Pradeep Kumar Gulati

....Petitioner

Versus

Kuldeep Adhalakha

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Lathar, Advocate,
Legal Aid Counsel for the petitioner.

None for the respondent.

HARNARESH SINGH GILL, J. (Oral).

Challenge in the present petition is to the judgment of conviction and order of sentence dated 20/24.2.2015 passed by the learned Judicial Magistrate, Ist Class, Faridabad, whereby the petitioner, having been found guilty of the offence under Section 138 IPC, was sentenced to undergo RI for one year and to pay a compensation of Rs.6,37,500/-. Challenge is also to the order dated 11.05.2016 passed by the learned Additional Sessions Judge, Faridabad, whereby pending appeal, the parties were allowed to compound the offence culminating into the acquittal of the petitioner.

Learned counsel for the petitioner, while laying challenge to the judgment and order passed by the trial Court, argues that as a matter of fact, the cheques in issue, had been misused by Pardeep Wadhwa in connivance with respondent-Kuldeep Adhlakha; that as a matter of fact, the entire amount of

Rs.4,25,000/- was paid in cash by the wife of the petitioner on his instructions, to said Pardeep Wadhwa, but despite that Paradeep Wadhwa, through his co-brother, Kuldeep Adhlakha (respondent herein), got filed a false complaint before the trial Court. It is further argued that the trial Court, has totally brushed aside the said aspect of the matter and rather raised a presumption against the petitioner under Section 138 of the Negotiable Instruments Act, 1881.

The order passed by the Appellate Court has been challenged on the ground that the settlement had been arrived at under pressure and by force and accordingly, the amount of Rs.4,25,000/- was paid by the petitioner to the respondent-complainant, under compelling circumstances.

There is no representation on behalf of the respondent.

I have heard learned counsel for the petitioner and have also gone through the impugned judgments and order passed by the Courts below.

It may be noticed that once the matter stood settled; the parties were allowed to compound the offence and the agreed amount also stood paid before the Appellate Court, the only ground that needs to be examined in this case is whether there is any substance in the pleas taken by the petitioner that the settlement arrived at, was the result of pressure or force.

Relevant extracts from the order dated 11.05.2016 passed by the learned Additional Sessions Judge, Faridabad, would read as under:-

“2.As per settlement between the parties, the appellant has paid four cheques bearing No. 000001 dated 28.06.2016 of Rs.1 lac, 000002 dated 10.08.2016 of Rs.1,25,000/-, 000003 dated 10.10.2016 of Rs.1 lac and 000004 dated 10.12.2016 of Rs.1 lac, all drawn on Bank of India, Bahadurshah Jafar Marg, New Delhi, in favour of the respondent-complainant Kuldeep Adhlakha son of Bhawani Dass Adhlakha, today in the Court as full and final settlement and the same have been received by the respondent. Their statements to this effect have been recorded separately. The appellant stated that he is a poor person and he hardly arranged the said amount. The respondent stated that he has no objection if offence is compounded and the appellant is acquitted. He further stated that in case of default of any of the cheques, the present appeal may be revived and penalty of Rs.50,000/- may be imposed.

3. The dispute between the parties is of a monetary nature and they are ready to amicably resolve it. This Court is of the considered view that it will be in the larger interest of justice and shall promote harmonious relations between the parties if necessary permission to compound the offence is accorded to them and hence, it is ordered accordingly. Since the offence, with which the appellant has been convicted, is compoundable and the parties have entered into a settlement, it is ordered that the impugned judgment of conviction and order of sentence are hereby set aside and the offence is compounded. Consequently, the appellant is acquitted of the charges leveled against him. His bail bonds and surety bonds are discharged. It is made clear that in case of default of any of the cheques, the present appeal be revived and penalty of Rs.5,000/- be imposed. The appeal is disposed accordingly.”

The said order would show that it was with the consent of the parties that they were allowed to compound the offence and in this regard, statements of both the parties were also recorded.

The petitioner claims that his wife had, under the oath of their children, pressurized him to compromise the matter. However, the said averments seem to be only an afterthought. The petitioner has not pleaded any fraud, coercion or undue influence either by the respondent or by the Court. Rather, he has raised pleadings against his wife. Any decision taken by the petitioner to settle the matter, might have arisen on the advice of his wife, but the circumstances, preceding such advice, might be to have a peaceful end to the proceedings. Thus, having gained his acquittal from the appellate Court upon payment of the settled amount, the petitioner cannot turn round and plead contrary.

No other point has been urged.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

15.09.2022
ds

(HARNARESH SINGH GILL)
JUDGE

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