

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

CRR-1585-2019 (O&M)
Date of Decision: 09.03.2022

Vatsa Electronics

... Petitioner

Versus

Pala Ram & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.K. Hooda, Advocate
for the petitioner.

Mr. Surinder Singh Virk, Advocate
for respondent No.1.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the order dated 01.06.2019 passed by the learned Sessions Judge, Panipat, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 16.12.2015 passed by the learned Sub Divisional Judicial Magistrate, Samalkha, has been dismissed.

2. The brief facts of the case are that the facts as alleged by the complainant-respondent No.1 is that he was engaged in the business of running a milk dairy and was an agriculturist. He also used to take agricultural land on lease. The accused-petitioner, who was proprietor of Vatsa Electronics was known to the brother-in-law of respondent No.1/complainant. On 02.07.2010, the proprietor of accused along with the

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brother-in-law of the complainant, came to the house of the latter and requested him to lend a sum of Rs.7 lakh to him for business purpose. He was running an electronics business at Ganaur, District Sonapat. He promised the complainant to return the borrowed amount within two months. The complainant considered the request of the accused and gave a sum of Rs.7 lakh to him. To discharge his debt liability, the accused issued a cheque bearing No.0204573 dated 27.09.2010 drawn on Oriental Bank of Commerce, Samalkha Branch for a sum of Rs.7 lakh. The accused requested the complainant to present the said cheque on 29.09.2010. The complainant presented the said cheque with his banker Punjab National Bank, Samalkha Branch on 29.09.2010. However, this cheque was received dishonoured with the remarks 'Funds Insufficient' and 'Dormant Account' vide memo dated 29.09.2010. The complainant intimated the accused about the dishonour of the cheque and then the accused requested him to present cheque again in the bank. The said cheque was again presented on 19.10.2010 but was again dishonoured with the same remarks vide memo dated 19.10.2010. The complainant again intimated the accused about this fact and requested the accused to make payment of the amount borrowed from him but on request of the accused, he again presented the cheque after two months on 23.12.2010 but unfortunately, the cheque was dishonoured again with the remarks 'Insufficient Funds' and 'Dormant Account'. The complainant informed the accused who did not pay any heed of his request. Therefore, complainant served a legal notice upon the accused on 13.01.2011 through registered post.

3. Thereafter, a complaint under Section 138 of Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was

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summoned to face the 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 two years and pay a compensation of double the cheque amount.

4. That aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Sessions Judge, Panipat, which came to be dismissed on 01.06.2019.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, a compromise was effected between the parties and the respondent-complainant sworn an affidavit (Annexure A-1) in support of the compromise. A perusal of the affidavit would reveal that a compromise has been effected and the complainant is satisfied as he has received his entire consideration amount/cheque amount and have no objection if the accused-petitioner is acquitted. It would be relevant to mention here that an application under Section 147 of Negotiable Instruments Act read with Section 320 Cr.P.C. has also been filed seeking compounding of the offence 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. The admitted position is that the matter stands settled pursuant to which an application under Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. has been filed. 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.”

9. 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.

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10. Accordingly, the revision petition is allowed and the order dated 01.06.2019 passed by the learned Sessions Judge, Panipat, and the judgment of conviction and order of sentence dated 16.12.2015 passed by the learned Sub Divisional Judicial Magistrate, Samalkha, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

09.03.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No