

CRM-46836-2022 in/and
CRR-1568-2022 (O&M)

-1-

106+234 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-46836-2022 in/and
CRR-1568-2022 (O&M)
Date of Decision:07.12.2022

PARVEEN KUMAR

..... Petitioner

Versus

STATE OF HARYANA AND ANOTHER Respondents
CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Ms. Dimple Jain, AAG, Haryana.

Mr. Imran A. Ali, Advocate for
Mr. H.S. Deol, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of judgment and order dated 10.07.2017/11.07.2017 whereby petitioner has been awarded sentence of 1 year for commission of offence punishable under Section 138 of Negotiable Instruments Act, 1881 and further directed to pay compensation of Rs.2,20,000/- in terms of Section 357(3) Cr.P.C. to the complainant. The petitioner is further assailing order dated 07.07.2022 whereby learned ASJ, Yamuna Nagar has dismissed appeal of the petitioner.

Learned counsel for the petitioner *inter alia* submits that petitioner is in custody since 22.05.2022. The petitioner has entered into a compromise dated 24.11.2022 with the complainant. The petitioner has made full and final payment to the complainant who has executed an affidavit dated 16.11.2022 deposing that he has received full and final payment from wife of the appellant and does not want to take any action against the appellant. He has no objection, if revision petition of Parveen Kumar is allowed.

As held by a three Judge Bench of Hon'ble Supreme Court *P. Mohanraj and others Vs. Shah Brothers Ispat Private Limited (2021) 6 SCC 258*, the gravamen of a proceeding under Section 138, though couched in language making the act complained of an offence, is really in order to get back through a summary proceeding, the amount contained in the dishonored cheque together with interest and costs, expeditiously and cheaply.

Learned counsel for the respondent submits that he has not objection, if present petition is allowed and respondent is released.

From the perusal of the pleadings and arguments of the learned counsel for the petitioner, it is evident that petitioner has made full and final payment to the claimant-Prithvi Singh. The petitioner has already suffered incarceration of almost 7 months out of sentence of 1 year. The respondent has no objection, if petition is allowed.

In view of the fact that matter has been compromised and petitioner has already suffered incarceration of 7 months, the present petition deserves to be allowed. The sentence awarded is reduced to already undergone. The petitioner is ordered to be released. It is made clear that no view *qua* merits of the case has been expressed.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

07.12.2022
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>