

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

**CRR-1730-2019 (O&M)
Date of Decision: 05.04.2022**

Jai Bhagwan

... Petitioner

Versus

State of Haryana & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajinder Goyal, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. Priyavrat Prashar, Advocate for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the order dated 18.07.2019 passed by the learned Sessions Judge, Kaithal, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 17.01.2019 passed by the learned Judicial Magistrate, 1st Class, Kaithal, has been dismissed.

2. The brief facts leading to the filing of the present revision petition are that the accused had borrowed an amount of Rs.2,00,000/- for one month from the complainant and in order to discharge his liability, the accused issued cheque bearing No.253343 dated 29.01.2016 (Ex.C1), for an amount of Rs.2,00,000/- from his bank account bearing No.82782010017543

of Syndicate Bank, Kaithal, in favour of the respondent-complainant on 29.01.2016, the respondent-complainant presented the said cheque for encashment in his account maintained with Punjab National Bank, Kaithal, but the same was dishonoured with the remarks “Funds Insufficient” vide memo dated 30.01.2016 (Ex.C2); that thereafter, the respondent served legal notice dated 16.02.2016 (Ex.C3), upon the petitioner-accused but he failed to make the payment of the amount of the cheque in question.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was 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 simple imprisonment for a period of three months and pay compensation to the tune of Rs.2,00,000/-. In default of payment of compensation, the petitioner-accused was further sentenced to undergo simple imprisonment for five days.

4. That aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Sessions Judge, Kaithal, which came to be dismissed on 18.07.2019.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, the matter was referred to the Mediation and Conciliation Centre of this Court and as per the report dated 27.09.2019, a settlement has been arrived at between them on 27.09.2019. 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 27.09.2019 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 18.07.2019 passed by the learned Sessions Judge, Kaithal and the judgment of conviction and order of sentence dated 17.01.2019 passed by the learned Judicial Magistrate, 1st Class, Kaithal, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

05.04.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No