IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-1813-2022
Date of decision : 29.10.2022

Swaran Singh ... Petitioner

V/S

Punjab National Bank ... Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. H.P.S. Ghuman, Advocate
for the petitioner.

Mr. Deepak Aggarwal, Advocate
for the respondent.

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ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present revision petition for setting aside judgment dated 11.02.2020 passed by learned Additional Sessions Judge, Patiala affirming judgment of conviction and order of sentence dated 08.11.2017 passed by learned Sub Divisional Judicial Magistrate, Nabha, holding him guilty under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the N.I. Act') and sentencing to undergo rigorous imprisonment for a period of 01 year and 06 months and to payment of compensation equivalent to the cheque amount.

Learned counsel for the petitioner submits that the parties have amicably settled the matter and nothing remains to be paid by the petitioner to the respondent-Bank. No useful purpose would be served by keeping the petitioner behind bars any more. The cheque amount of Rs.16,67,847/- has already been paid to the respondent-Bank and nothing remains due towards the petitioner. The offence is compoundable, therefore, the present revision petition may be allowed in terms of compromise.

Learned counsel for the respondent-Bank admits the factum of compromise and filed an affidavit dated 21.09.2022 of Sh.Gaurav Mittal, Branch Manager, Punjab National Bank, Nabha which is taken on record. As per the said affidavit the loan account of the petitioner has already been adjusted by him and now no amount is due against the petitioner. The respondent-bank does not have any objection if the petitioner is permitted to compound the offence under Section 147 of the N.I. Act.

Apparently, both the parties settled the dispute amicably by way of compromise.

In view of ratio laid down in ***Kaushalya Devi Massand Vs. Roopkishore Khore : 2011(2) RCR (Criminal) 298 and Damodar S. Prabhu Vs. Sayed Babalal, AIR 2010 (SC) 1097***, the revisional jurisdiction of the High Court in terms of Section 401 Cr.P.C can be exercised, which would result in bringing the ends of justice between the parties. These powers would also be in consonance with the spirit of Section 147 of the N.I. Act.

Section 147 of the N.I. Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in stricto sensu, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court. The Court in a given case can reduce the costs as regards the specific facts involved therein, of course reasons are to be recorded for such a variance.

In the present case, taking into consideration the time and the manner in which the litigation was fought, I am of the view that 15% of the cheque amount towards cost of litigation can be waived off in the interest of justice.

In view of above, impugned judgments/order(s) dated 11.02.2020 and 08.11.2017 are set aside. Petitioner is allowed to compound the offence in terms of Section 147 of the Negotiable Instruments Act. This criminal revision is allowed in terms of compromise. The petitioner is acquitted from the charges framed against him.

29.10.2022 **(ASHOK KUMAR VERMA)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No