

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-47994-2022
in CRR-1207-2021 (O& M)
Date of decision: 15.12.2022**

Ramjit Petitioner

V/s

Roselina Masih ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Suneet Pal Singh Aulakh, Advocate,
for the applicant-petitioner.

Mr. Tapish Gupta, Advocate, for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 29.9.2021 passed by the learned Additional Sessions Judge, Ludhiana, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 13.06.2018 passed by the learned Judicial Magistrate, 1st Class, Ludhiana, has been dismissed.

2. Briefly, the facts of the case are that the accused-petitioner had taken a friendly loan of Rs. 20,000. The complainant requested many a times to the accused to return the loan amount, but he lingered on the matter on one pretext or the other. Thereafter, the accused, in discharge of his legal liability, issued a cheque bearing No. 810158 dated 27.5.2015 in favour of the complainant. The complainant presented the cheque for encashment, which was dishonoured vide memo dated 21.07.2015 with the remarks "Funds insufficient". The accused was duly served a registered legal notice by the complainant through his counsel but the accused failed to make

payment of the dishonoured cheque within the stipulated period of the receipt of the registered legal notice.

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 rigorous imprisonment for a period of 01 year and to pay a fine of Rs. 1,000/- and in default of payment of fine to undergo simple imprisonment for one month.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Additional Sessions Judge, Ludhiana, which came to be dismissed on 29.09.2021.

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 Mediation and Conciliation Centre of this court vide order dated 27.07.2022 passed by this court and the parties were directed to appear before the said Forum on 08.08.2022. The matter was compromised/settled amicably to the entire satisfaction of both the parties before the said Forum. A report of the mediator at 'Flag A' as well as a copy of the compromise dated 21.10.2022 (Annexure A-1) are on record. Both the parties have agreed to relinquish all their rights arising out of this matter.

In furtherance of the compromise effected between the parties, the learned counsel for the applicant-petitioner has moved an application under Section 147 of the Negotiable Instruments Act, 1881 read with Section 482 Cr.P.C. for compounding the offence. It would be relevant to mention

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 '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. 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.

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 application (CRM-47994-2022) as well as the present revision petition are allowed and the order dated 29.09.2021 passed by the learned Additional Sessions Judge, Ludhiana, and the judgment of conviction and order of sentence dated 13.06.2018 passed by the learned Judicial Magistrate, 1st Class, Ludhiana, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

Since the main petition has been disposed of, no order needs to be passed in the criminal miscellaneous application(s), if any.

(JASJIT SINGH BEDI)
JUDGE

December 15, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No