

231 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRR-1301-2020 (O&M)

Decided on: 15<sup>th</sup> March, 2022

Ashok Kumar

Petitioner

Versus

Gorav Monga

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Tarun Sharma, Advocate for the petitioner.

Mr. Parneet Singh, Advocate for the respondent.

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**AVNEESH JHINGAN, J (Oral):**

1. Due to COVID-19 situation, the Court is convened through video conference.
2. This criminal revision is filed aggrieved of conviction under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and upholding of conviction and sentence in appeal. The petitioner was sentenced to undergo one year rigorous imprisonment and to pay fine of rupees two thousand and in default of payment of fine, simple imprisonment for one month.
3. The brief facts are that petitioner issued a cheque of rupees two lakh to the complainant. On presentation the cheque was dishonored, after serving notice complaint was filed. After dismissal of the appeal, the parties compromised the matter.
4. This Court taking note of the compromise, directed the parties to get their statement recorded before the trial Court.

5. In the meantime, petitioner deposited fifteen percent of the cheque amount as per the decision of judgment of the Supreme Court in *Damodar S. Prabhu v. Sayed Babalal H.*, 2010(5) SCC 663.

6. The report dated 22<sup>nd</sup> February, 2022 received states that compromise is valid, genuine, voluntary and without any pressure, coercion or undue influence.

7. In **K.M. Ibrahim v. K.P. Mohammed and another, (2010) 1, SCC 798**, Supreme Court held as under:-

*“8. The golden thread in all these decisions is that once a person is allowed to compound a case as provided for under Section 147 of the Negotiable Instruments Act, the conviction under Section 138 of the said Act should also be set aside. In the case of Vinay Devanna Nayak (supra), the issue was raised and after taking note of the provisions of Section 320 Cr.P.C., this Court held that since the matter had been compromised between the parties and payments had been made in full and final settlement of the dues of the Bank, the appeal deserved to be allowed and the appellant was entitled to acquittal. Consequently, the order of conviction and sentence recorded by all the courts were set aside and the appellant was acquitted of the charge leveled against him.”*

8. After hearing learned counsel for the parties and taking into consideration the fact that the parties have settled their dispute. The offence punishable under Section 138 of the Act is compounded, accordingly, the impugned judgments and orders passed by the Courts below are set aside.

The complaint under Section 138 of the Act is dismissed and the petitioner is acquitted of the notice of accusation served upon him.

9. The revision petition is disposed of.

[AVNEESH JHINGAN]  
JUDGE

15<sup>th</sup> March, 2022

*Parveen Sharma*

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|-------------------------------|---|---------|
| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable         | : | Yes /No |