

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1462 OF 2021 (O&M)
Date of decision: 10.02.2022

Gopal Singh
...Petitioner(s)

Versus

Joginder Singh & anr.
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Dhawan, Advocate
for the petitioner(s).

Mr. Nritika Verma, Advocate
for respondent no.1.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

Criminal Complaint	No. Nact-2200/2018 under Section 138 of the Negotiable Instruments Act, District Jalandhar decided on 08.12.2018.
Criminal Appeal	No. CRA-16-2019, Additional Sessions Judge, District Jalandhar decided on 08.11.2021

1. The petitioner, who stands convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (NIA) has come up before this Court under Section 401, Code of Criminal Procedure, (CrPC), seeking setting aside of judgment of conviction dated 08.12.2018 passed by Judicial Magistrate Ist Class, Jalandhar and judgment in appeal dated 08.11.2021 passed by Additional Sessions judge, Jalandhar as well as quashing of proceedings arising out of complaint captioned above, as the parties have compromised the matter. The petitioner has also moved an application under Section 147 NIA for compounding the offence in lieu of compromise dated 11.11.2021 between the parties.
2. Learned counsel for the petitioner has also made an oral request to invoke the inherent powers of this Court under Section 482 CrPC in order to set aside the impugned judgments in view of the compromise entered between the parties.

3. The petitioner faced criminal prosecution by the private respondent, because of the dishonour of the cheque in question.

4. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honoured. The legislative intention is not to make people suffer incarceration only because their cheques bounced. These proceedings are to recover the cheque amount by showing teeth of a penal clause.

5. Given the judgment passed by Hon'ble Supreme Court of India in Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663, the law is well settled that when the entire money is paid, then the complainant cannot have any objection to such compromise, and 15% of the cheque amount is to be paid by the accused to the concerned State Legal Services Authority.

6. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the CrPC supported by Section 147 of the NIA is invoked to disrupt the prosecution and quash the proceedings mentioned above. The complaint, notice of accusation, and the proceedings captioned above are quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.

7. The petitioner has filed an application for a reduction of 15% amount payable to the State Legal Aid Authority. Although the cheque was drawn for a sum of Rs. 27,50,000/-, but the parties agreed for mutual compromise for a sum of rupees five lacs only (Rs. 5,00,000). As per the application, the convict has already paid the entire amount of rupees five lacs to the complainant. This shows that the real value of controversy would not be five and a half times of the settlement amount. The applicant has also mentioned further reasons in paragraphs 5 to 8. I have gone through the application's contents, and I am satisfied that the amount at the rate of 15% would cause great hardship to the petitioner. Thus, the equity and compassion demand that the amount is reduced to the applicant's reach. Given above, in the entirety of facts and circumstances peculiar to this case, this court deems it appropriate to reduce the settlement amount payable to the State Legal Aid Authority to 15% of the settlement amount instead of cheque amount.

8. In Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663, Hon'ble Supreme Court holds,

[17]. "...Even though the imposition of costs by the competent

court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance.”

9. The amount of settlement is rupees five lacs. (Rs.5,00,000). The 15% of Rs. 5,00,000/- comes to be Rs. Seventy-five thousand only (Rs. 75,000/-). In the facts and circumstances peculiar to this case, this court deems fit and necessary to reduce it to rupees Rs. Seventy-five thousand only (Rs. 75,000/-). This compounding is subject to the petitioner depositing the aforesaid amount on or before March 31, 2022, with the concerned wing of State Legal Services Authority, failing which this entire order, including compounding, shall automatically stand recalled under Section 362 and Section 482 CrPC, and this petition shall be posted for hearing on merits. However, in extraordinary circumstances, the petitioner may approach this Court for an extension of time to deposit the compounding fee. Petitioner to file the proof of deposit before the trial Court within the aforesaid time.

10. Consequently, the above-captioned complaint, notice of accusation, and all consequent proceedings i.e. judgment of conviction dated 08.12.2018 passed by Judicial Magistrate Ist Class, Jalandhar and judgment in appeal dated 08.11.2021 passed by Additional Sessions judge, Jalandhar would also stand quashed *qua* the petitioner and the petitioner would also stand acquitted of all the offences captioned above.

Petition allowed in the terms mentioned above. All pending applications, if any, shall stand disposed of.

(ANOOP CHITKARA)
JUDGE

February 10, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.