

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209/2

CRR-2609-2019(O&M)

DATE OF DECISION: 19.07.2022

VIKAS GUPTA AND ANR

... Petitioner(s)

Versus

M/S IND. SWIFT

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Vikram Brar, Advocate
Mr. Uday Agnihotri, Advocate for the petitioner(s).

Mr. Surjeet Bhadu, Advocate and
Mr. Veer Singh, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the judgments and orders of the Courts below whereby they have been convicted for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881, and have been sentenced to undergo rigorous imprisonment for a period of one year and pay compensation of Rs.48,70,000/-.

Learned counsel appearing for the petitioners contends that the allegations against the petitioners are that the cheque issued by petitioner No.2 for a sum of Rs.48,70,000/- on 08.04.2009 was dishonoured on account of 'payment stopped by drawer'. He, however, contends that the petitioners were having regular business dealings with the respondent (complainant), who were supplying him medicines. He also contends that the petitioners had filed a complaint with the police as cheques had been stolen from the premises of the Company on 04.11.2008, which was five months prior to the issuance of the cheque. He also contends that the complainant did not produce the original bills. He also contends that the signatures on the cheque did not match with the signatures of the drawer. He further contends that the legal notice was not served on the drawer of the cheque. He also submits that the matter has indeed been compromised and a sum of Rs.35,04,500/- in full and final settlement has been paid to the respondent/complainant. He also states that as the matter

has been compromised the offence can be compounded in terms of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H., 2010 (5) SCC 663.**

Learned counsel for the complainant states that the matter has indeed been compromised and he has no objection if offence is compounded in terms of the judgment of the Supreme Court in case of **Damodar S. Prabhu vs. Sayed Babalal H. (supra).**

Heard.

The petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881. As the dispute has been settled by the parties and a sum of Rs.35,04,500/- has been paid to the complainant towards the full and final settlement, it would be in the interest of justice, if the offence is compounded under Section 320(6) of the Cr.P.C. The liability under Section 138 of the Negotiable Instruments Act, 1881 is civil in nature and in case the parties have arrived at compromise, the same should be accepted to give quietus to the litigation.

Consequently, the petition is allowed and the judgments dated 03.09.2016 passed by the trial Court and dated 23.09.2019 passed by the Appellate Court, are set aside. The petitioners are acquitted of the charges.

Criminal miscellaneous application, if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

19.07.2022

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No