IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

CRR No.1782 of 2021(O&M)

Date of Decision: 05.01.2022

Rajinder Singh

.....Petitioner

Vs.

Gurchet Singh

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Aman Dhir, Advocate
for the petitioner.

Mr. Lalit Goyal, Advocate
for the complainant.

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ANOOP CHITKARA J. (Oral)

Criminal Complaint	No. 213/2017 under Section 138 of the Negotiable Instruments Act, 1881, Gidderbaha, District Sri Muktsar Sahib
Criminal Appeal	No.135/29.08.2019, Additional Sessions Judge, District Sri Muktsar Sahib
Criminal Revision	No. 1782/2021

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) for setting aside the judgment of conviction dated 31.07.2019 passed by learned Sub Divisional Judicial Magistrate, Gidderbaha, whereby the petitioner has been sentenced to undergo rigorous imprisonment for a period of one year and

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to pay fine of Rs.2,000/- and in default, to undergo further imprisonment of simple imprisonment of two months as well as judgment in appeal dated 09.12.2021 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, whereby the judgment of the trial Court has been upheld.

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

3. Along with the revision petition, the petitioner has filed an application i.e. CRM-44554-2021 under Section 482 of the CrPC for compounding of offence on the basis of compromise dated 10.12.2021 (Anneuxre A-1) entered between the parties.

4. At this stage, Mr. Lalit Goyal, Advocate has put in appearance on behalf of the complainant and filed his power of attorney in Court, which is taken on record. He states at bar, on instructions, that the complainant has no objection if the compromise is taken on record and judgments of both the Courts below are set aside, based on the compromise entered into between the parties.

5. Given above, since the matter primarily appears to be civil in nature with criminal tinge and the fact that the petitioner has already suffered sufficient incarceration, as such, nothing shall be achieved by adjourning the matter.

6. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honored. The legislative intention is not to make people suffer incarceration only because their cheque bounced. These proceedings are to execute the recovery of cheque amount by showing teeth of penalty loss.

7. Given the judgment passed by Hon'ble Supreme Court of India in ***Damodar S. Prabhu vs. Sayed Babalal,*** (2010) 5 SCC 663, the law is well settled that when

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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.

8. 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. Accordingly, the present revision petition is allowed and the judgment of conviction dated 31.07.2019 passed by learned Sub Divisional Judicial Magistrate, Gidderbaha and judgment in appeal dated 09.12.2021 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, the above-captioned complaint along with notice of accusation and the proceedings captioned above are hereby set aside/quashed. All pending application(s), if any, stand closed.

9. The amount of cheque in question was Rs.2,40,000/-, 15% of which comes out to be Rs.36,000/-. The petitioner shall depositf the amount of Rs. 36,000/-, on or before 31-03-2022, with the Punjab State Legal Services Authority, Chandigarh, 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 with in the aforesaid time.

10. Since the conviction and order of sentence are set aside, the petitioner shall be released from the jail on personal bond of Rs. Ten thousand (INR 10,000/-) to the satisfaction of the concerned Jail Superintendent where he is lodged. It is cla-

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rified that the petitioner shall be released from the jail immediately and in case he fails to deposit the cheque amount, he shall surrender the same in jail on 01.04.2022.

There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Applicant can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the concerned Jail Superintendent wants to verify the authenticity, they can also verify its authenticity and may download and use the downloaded document for attesting bonds.

Petition allowed. Pending applications closed.

(ANOOP CHITKARA)
JUDGE

January 5, 2022
AK

Whether speaking/reasoned: Yes
Whether reportable: **No.**

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