

**108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-2719-2022 (O&M)

Date of Decision:08.12.2022

NAVEEN SIWACH

..... Petitioner

Versus

VIKRAM SINGH AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. KDS Hooda, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking setting aside of judgment and order dated 12.02.2021, whereby JMIC, Hisar, has convicted the petitioner and awarded sentence of 6 months. The petitioner is further seeking setting aside of order dated 01.12.2022 passed by ASJ, Hisar, whereby appeal of the petitioner has been dismissed. The trial Court apart from awarding sentence has directed the petitioner to pay double of the cheque amount.

Notice of motion.

On the asking of Court, Mr. Harshvardhan Ranga, Advocate and Mr. Vikas Bhardwaj, AAG, Haryana accept notice on behalf of respondent No. 1 and respondent No. 2 respectively.

Both the parties are *ad-idem* that matter has been compromised. Learned counsel for the respondent has filed compromise deed dated 06.12.2022 confirming compromise between the parties. As per compromise, the complaint/respondent has already received full and final payment and he has no objection, if the present petition is allowed and petitioner is released.

As held by a three Judge Bench of Hon'ble Supreme Court *P. Mohanraj and others Vs. Shah Brothers Ispat Private Limited (2021) 6 SCC 258*, the gravamen of a proceeding under Section 138, though couched in language making the act complained of an offence, is really in order to get back through a summary proceeding, the amount contained in the dishonored cheque together with interest and costs, expeditiously and cheaply.

From the perusal of the pleadings and arguments of the learned counsel for the parties, it is evident that petitioner has made full and final payment to the claimant-respondent. The petitioner has already suffered incarceration of one week out of sentence of 6 months. The respondent has no objection, if petition is allowed.

In view of the fact that matter has been compromised and petitioner has already suffered incarceration of one week, the present petition deserves to be allowed. The sentence awarded is reduced to already undergone. The petitioner is ordered to be released. It is made clear that no view *qua* merits of the case has been expressed.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

08.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>