

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

**CRR-2822-2022 (O&M)
Date of Decision:19.12.2022**

GURCHARAN SINGH

..... Petitioner

Versus

STATE BANK OF INDIA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Ms. Divya Sharma, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking quashing of judgment and order dated 27.08.2018 passed by JMIC, Fatehgarh Sahib whereby petitioner has been awarded sentence of 1 year for commission of offence punishable under Section 138 of Negotiable Instruments Act, 1881 and further directed to pay cheque amount i.e. Rs.22,00,000/- in terms of Section 357 Cr.P.C. to the complainant. The petitioner is further assailing order dated 02.02.2019 whereby learned ASJ, Fatehgarh Sahib has dismissed appeal of the petitioner.

Learned counsel for the petitioner *inter alia* submits that petitioner is in custody since 28.10.2022. The petitioner on 15.07.2022 settled the matter with respondent-Bank who in-turn has released land of the petitioner. Thus, petitioner may be released and present petition may be allowed.

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.

Mr. Rakesh Gupta, Advocate for the respondent-Bank confirms genuineness of Annexure P-1 i.e. letter issued by the State Bank of India and receipt of full and final payment. He further submits that Bank has no more grievance against the petitioner.

In view of statement of learned counsel for the respondent-Bank that Bank has already received its full and final payment, the alleged offence is a compoundable offence and as per judgment of Hon'ble Supreme Court in ***P. Mohanraj and others*** (supra) the proceedings under Section 138 of Negotiable Instruments Act, 1881 are *quasi-criminal* in nature and essence of proceedings is to expedite recovery of cheque amount, this Court is of the considered opinion that present petition deserves to be allowed and is accordingly allowed. The petitioner is henceforth ordered to be released, if not required in any other case.

Allowed in the above terms.

All the pending applications shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

19.12.2022

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No