

**(116+243) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR-3452-2019 (O&M)
Date of Decision: 26.05.2022**

Rajpal Singh

... Petitioner

Versus

State of Punjab & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Pankaj Garg, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, Asstt. AG, Punjab.

Mr. Shadab Ahmed, Advocate for respondent No.2.

JASJIT SINGH BEDI, J.

CRM-40235-2019

This application has been filed under Section 5 of Limitation Act read with Section 482 Cr.P.C. for condonation of delay of 653 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 653 days in filing the appeal is hereby condoned.

CRR-3452-2019

The present revision petition has been filed against the order dated 22.08.2017 passed by the learned Additional Sessions Judge, Mansa, vide which the appeal preferred by the petitioner against the judgment of

conviction and order of sentence dated 18.03.2014 passed by the learned Sub Divisional Judicial Magistrate, Budhlada, has been dismissed.

2. The brief facts of the case are that the petitioner-accused borrowed a sum of Rs.80,000/- from complainant. Thereafter, in order to discharge his liability, accused issued cheque No.699708 dated 31.08.2011 drawn on State Bank of Patiala, Branch Budhlada, amounting to Rs.80,000/-. The cheque was presented for realization of the amount, but the same was dishonoured vide memo dated 03.10.2021 with the remarks "Insufficient Funds". The legal notice dated 04.10.2011 was served upon accused to make the payment of cheque in question but despite that the accused did not make the payment of the cheque in question within the stipulated period.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face the trial. The evidence was led and ultimately, he was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo two years rigorous imprisonment with fine of Rs.5000/- in default whereof to undergo further imprisonment for a period of two months.

4. That aggrieved against the said judgment of conviction and order of sentence, the petitioner-accused preferred an appeal before the learned Additional Sessions Judge, Mansa, which came to be dismissed on 22.08.2017.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, a settlement has been arrived at between them (Annexure P-1). It

would be relevant to mention here that a reading of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. would show that where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for the complainant-respondent has accepted the factum of compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

7. I have heard the learned counsel for both the parties.

8. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

9. The admitted position is that the matter stands settled and the compromise between the parties is already on record as Annexure P-1. This Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-

“4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-

“Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court

or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

10. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

11. Accordingly, the revision petition is allowed and the order dated 22.08.2017 passed by the learned Additional Sessions Judge, Mansa and the judgment of conviction and order of sentence dated 18.03.2014 passed by the learned Sub Divisional Judicial Magistrate, Budhlada, are hereby set aside. The petitioner is acquitted of the charges under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

26.05.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No