

**(258) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-3457-2019

Date of Decision: 28.07.2022

SANJAY

... Petitioner

Versus

RAJESH VERMA & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.K. Hooda, Advocate
for the petitioner.

Ms. Geeta Rani, Advocate for respondent No.1.

Mr. Vikrant Pamboo, DAG, Haryana
for respondent No.2.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the order dated 13.12.2019 passed by the learned Sessions Judge, Panipat, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 17.04.2018/18.04.2018 passed by the learned Judicial Magistrate, 1st Class, Panipat, has been dismissed.

2. The brief facts of the case are that the complainant-Rajesh Verma filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 alleging therein that the petitioner-accused, who was having friendly relations with him, had approached him in the month of March 2015 and had

requested him to lend him a sum of Rs.1,40,000/- on the pretext that he was in dire need of money. The complainant had given him this amount for a period of 07 months. To discharge his legal and recoverable debt, the accused had issued a cheque bearing No.896173 dated 09.11.2015 drawn on Punjab National Bank, Jattal Road Branch, Panipat for a sum of Rs.1,40,000/- from his account No.3272000100026021 and had handed over the same to the complainant by assuring that the cheque would be encashed on presentation. The complainant deposited the said cheque with his bank i.e. Bank of Baroda, Panipat Branch, but the same was dishonoured vide memo dated 10.11.2015 with the remarks "Insufficient Funds". The complainant, then, contacted the accused and demanded the aforesaid amount, but the accused refused to pay the same. The complainant, then, served a legal notice through his counsel through registered post upon the accused on 26.11.2015. The same was duly received by the accused, but he did not pay the amount of Rs.1,40,000/- and also did not give any reply to the notice received by him. Therefore, the complainant prayed for taking penal action against the accused for commission of offence punishable under Section 138 of the Negotiable Instruments Act.

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 simple imprisonment for a period of 01 year and pay the compensation to the tune of Rs.1,40,000/- (Rupees One Lac Forty Thousand only) to the complainant within a period of one month.

4. That aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Sessions Judge, Panipat, which came to be dismissed on 13.12.2019.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, the matter was referred to the Mediation and Conciliation Centre of

this Court and as per the report dated 16.03.2020, a settlement has been arrived at between them on 16.03.2020. 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 settlement agreement between the parties dated 16.03.2020 is already on record. This Hon'ble 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 22.07.2019 passed by the learned Sessions Judge, Panipat and the judgment of conviction and order of sentence dated 17.04.2018/18.04.2018 passed by the learned Judicial Magistrate, 1st Class, Panipat, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

28.07.2022
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No