

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.571 of 2022

Arising Out of PS. Case No.-3008 Year-2004 Thana- PATNA COMPLAINT CASE District-
Patna

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MITHILESH KUMAR SON OF LATE BHAGWAT RAM RESIDENT OF -
QUARTER NO.-43/48 SHASTRI NAGAR, P.S.- SHASTRI NAGAR,
DISTRICT- PATNA

... .. Petitioner/s

Versus

1. The State of Bihar
2. VIJAY KUMAR S/O SHIV JANAM SINGH R/O VILLAGE-
MAHUABAGH, P.S.- DANAPUR, DISTRICT- PATNA

... .. Respondent/s

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with

CRIMINAL REVISION No. 646 of 2022

Arising Out of PS. Case No.-3008 Year-2004 Thana- PATNA COMPLAINT CASE District-
Patna

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VIJAY KUMAR S/O LATE SHIV JANAM SINGH Resident of village-
Mahuabagh, P.S.- Danapur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. MITHILESH KUMAR S/O LATE BHAGWAT RAM Resident of Quarter
No- 43/48 Shastri Nagar, P.S.- Shastri Nagar, District- Patna

... .. Respondent/s

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Appearance :

(In CRIMINAL REVISION No. 571 of 2022)

For the Petitioner/s : Mr.Raj Nandan Prasad

For the Respondent/s : Mr.Anil Kumar Singh No. 1

(In CRIMINAL REVISION No. 646 of 2022)

For the Petitioner/s : Mr.Satish Kumar

For the Respondent/s : Mr.Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
CAV JUDGMENT

Date : 07-10-2023

1. Cr. Rev. No. 571 of 2022 has been filed by the
convict being aggrieved by the judgment dated 27.04.2022
passed in Cr. Appeal no. 99 of 2018 & CIS No. 99/2018
preferred against the sentence awarded by the learned ACJM-II,
Patna in Complaint Case No. 3008(C) of 2004 whereby the



appeal was partly allowed and partly dismissed. Admittedly the petitioner / revisionist had issued two cheques of Rs. 50,000/- each to the complainant, who is Opposite Party No. 2 in Cr. Revision No. 571 of 2022 and the petitioner in Cr. Revision No. 646 / 2022. Two cheques of Rs. 50,000/- were dishonoured on 11.10.2004 & 26.10.2004 due to insufficient fund and accordingly the petitioner of Cr. Rev. 646 of 2022 lodged Complaint Case No. 3008(C)/2004 on 10.12.2004. Learned Sub Judge II - cum -ACJM II, Patna vide judgment and order dated 23.03.2018 held the petitioner of Cr. Rev. No. 571 of 2022 namely, Mithilesh Kumar to be guilty for the offence under Section 138 of the N.I. Act and sentenced 03 months of S.I. as well as fine of Rs. 1,50,000/- with further order that if the fine is not deposited then the convict would serve 01 month S.I. in lieu of the same.

2. The Revisionist of Cr. Rev. No. 571 of 2022 preferred Cr. Appeal No. 99 of 2018 against the judgment of conviction dated 23.03.2018 passed by learned Sub Judge II cum ACJM- II, Patna. The learned appellate court vide its judgment dated 27-04-2022 partly allowed the appeal and partly dismissed the appeal and modified the fine of Rs. 1,50,000/- to Rs. 75,000/- while upholding the sentence awarded by the trial



court. The judgment passed by District Appellate Court dated 27/04/2022 has been impugned in Cr. Rev. No. 571 of 2022 by the convict / petitioner and also by the complainant- petitioner in Cr. Rev. No. 646 of 2022 being aggrieved by the reduction of fine from Rs. 1,50,000 to Rs. 75,000/-.

3. At the time of argument learned counsel appearing for petitioners in both the revision application jointly submitted that by the intervention of the family, friends and relatives of both the parties, they have entered into a joint compromise settlement. As per the terms of compromise the petitioner of Cr. Rev. No. 571 of 2022 has issued a demand draft of Rs. 1,25,000/- [one lakh twenty five thousand] bearing Draft No. 154189 dated 12-09-2023 of Kotak Mahindra Bank in favour of the Opposite Party No. 2 of Cr. Revision No. 571 of 2022 and the petitioner of Cr. Rev. No. 646 of 2022. Both the parties have mutually decided and arrived at an amicable settlement willingly and voluntarily. The terms of settlement has jointly been filed by way of joint compromise settlement petition by them which is kept on record. The Bank draft of Rs. 1,25,000/- [one lakh twenty five thousand] was produced by the petitioner of Cr. Rev. No. 571 of 2022 before this Court during argument and the same has been kept by the Court Master in his safe



custody as per the order dated 18.09.2023 of this Court.

4. Section 147 of the N.I. Act prescribes that notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence punishable under the N.I. Act shall be compoundable.

5. Section 320 of the Cr.P.C. deals with compounding of the offences under sub- section (6) & (8). Section 320(6) says that the High Court or the court of Sessions in the exercise of its power of revision under Section 401 may allow any person to compound any offence which such person is competent to compound under this section. Section 320 (8) says that the composition of an offence under this Section shall have the effect of acquittal of an accused with whom the offence has been compounded.

6. I have heard learned counsel for the parties and have perused the materials available on record including the joint compromise settlement petition as well as relevant provision under the N.I. Act and Cr.P.C. In pursuance of the joint compromise a bank draft of Rs. 1,25,000/- has also been submitted by the petitioner of Cr. Revision No. 571 of 2022 prepared in the name of Vijay Kumar, the petitioner of Cr. Rev. No. 646 of 2022.



7. Taking into consideration the aforesaid discussion on facts as well as law, I am satisfied that both the parties have arrived at an amicable settlement and accordingly this Court allow their prayer for compounding of offence under Section 138 of the N.I. Act.

8. In the result, the order of conviction of the trial court & the appellate court are hereby set aside. The petitioner of Cr. Revision No. 571 of 2022 is acquitted of all the charges and he is also discharged from the liability of bail bond.

9. The Court Master is directed to hand over the Demand Draft in question to learned counsel appearing for the Opposite Party No. 2 of Cr. Rev. No. 571 of 2022 and the petitioner of Cr. Revision No. 646 of 2022 in the Court itself with acknowledgment. The learned counsel for the Opposite Party No. 2 in turn is directed to hand over the Demand Draft in favour of his client / Vijay Kumar under receipt.

10. The application stands disposed of.

praful/-AFR

(Anil Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	18-09-2023
Uploading Date	07- 10-2023
Transmission Date	07-10-2023

