



Crl. MP No.3681 of 2023

in Crl RC No.945 of 2022

N.ANAND VENKATESH.,J

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This petition has been filed to compound the offence under Section 138 of the Negotiable Instruments Act and to set-aside the judgement of conviction and sentence passed against the petitioner for offence under Section 138 of the Negotiable Instruments Act.

2. Heard Mr.C.Prabakaran, learned counsel for the petitioner and Mr.R.Thirumoorthy, learned counsel for respondent.

3. The respondent filed a private complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The petitioner was convicted and sentenced to undergo one year simple imprisonment and to pay compensation to the tune of Rs.15,00,000/- and in default in payment of compensation, the petitioner was directed to undergo six months simple imprisonment. The conviction and sentence has been confirmed up to this Court.

4. Pursuant to the order passed in Crl.RC No.945 of 2022 dated 16.12.2022, confirming the judgement and order passed by both the Courts below convicting the petitioner under Section 138 of the Negotiable Instrument Act, the parties have reached a settlement and it is stated in the petition that the petitioner will settle a total amount of Rs.11,00,000/- to the respondent and the



respondent is also willing to receive this amount. Out of the total sum of Rs.11,00,000/-, a sum of Rs.7,50,000/- has already been deposited before this Court and it has also been withdrawn by the respondent. The balance sum of Rs.3,50,000/- was also paid to the respondent on 16.02.2023.

5. It is under these circumstances, the present application has been filed seeking for compounding the offence under Section 138 of the Negotiable Instruments Act.

6. The main issue that arises for consideration in this application is as to whether the offence can be compounded after the same has been confirmed up to this Court in the criminal revision case. The Apex court had an occasion to deal with the issue as to whether compounding of offence can be made based on the compromise reached between the parties, post conviction. The Apex court in **[Ramgopal and another Vs. State of Madhya Pradesh]** in 2021 (6) CTC 240 held that in an appropriate case, this Court can exercise its jurisdiction under Section 482 of Cr.PC and compound the offence. This was a judgement that was rendered by the Apex Court in a case involving IPC offence.

7. Section 147 of the Negotiable Instrument Act, 1881, reads as follows :-



“Offences to be compoundable notwithstanding anything contained in the code of criminal procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable”

8. A close reading of the above provision shows that it is an exclusive power and jurisdiction that has been given to the Court, notwithstanding anything contained in the code of criminal procedure. The provision does not restrict the power of the Court and it does not state at which stage it can be compounded. The reason for vesting such a wide power is that the offence involved under Section 138 of the Negotiable Instruments Act is quasi criminal in nature and it merely involves a dispute between two individuals. No public interest is involved in an offence under Section 138 of the Negotiable Instruments Act. Therefore, when the parties want to reach a settlement and consequently, seek for compounding the offence, the Court should not be driven by technicalities and prevent such a settlement.

9. In view of the above discussion, this Court holds that the final order passed in Crl.RC No.945 of 2022 will not come in the way of this Court to entertain this petition seeking for compounding the offence on the ground of compromise. This Court has sufficient powers under Section 482 of Cr.PC r/w. Section 147 of the Negotiable Instruments Act, to compound the offence.



10. In the result, this petition is allowed and the offence is compounded and the judgement and order passed by the Trial Court, Appellate Court and this Court in Criminal Revision are hereby set-aside.

10.03.2023

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