

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-32340-2023 in/and
CRR-268-2023 (O&M)
Date of decision: 18.08.2023

Sumit Yadav

....Petitioner

versus

Hitesh Vats and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr.Ranvir S. Chauhan, Advocate for applicant/petitioner.

None for respondent no.1.

Ms. Svaneel Jaswal, Addl.A.G., Haryana.

ARUN MONGA, J. (ORAL)**CRM-32340-2023**

Application herein has been filed by the applicant/petitioner under Section 147 of the Negotiable Instruments Act, 1881, read with Section 320(6) and 482 of the Cr.P.C. for compounding of offence under the provisions of Section 138/141 of the Act in Criminal Complaint No.1994/2014 in consideration of compromise effected between the parties.

2. On advance service of copy of application, learned State counsel appears and accepts notice on behalf of respondent no.2-State of Haryana.

3. None appears for non-applicant/respondent no.1, despite advance service of notice, which is seemingly suggestive that non-applicant (respondent no.1 in the main case) has no objection to the application and the revision petition being allowed.

4. Instead of rendering piecemeal decision on the application, main case, which is slated for 03.10.2023, is taken up for hearing on Board today itself.

5. Application stands disposed of accordingly.

CRM-3775-2023

Reply to the application has not been filed, despite opportunity.

For the reasons stated in application, same is allowed and delay of 380 days in filing the revision petition stands condoned, subject to all just exceptions.

Main case

Instant Revision petition has been filed by petitioner against the Judgments dated 13.02.2017/15.02.2017 and 13.10.2021 passed by learned Courts below whereby petitioner-accused was held guilty under Section 138 of Negotiable Instrument Act, 1881 (for short 'the Act') and sentenced to undergo rigorous imprisonment for one year besides payment of compensation of Rs.2.5 lakh to the complainant/respondent no.1 herein.

2. Brief facts of the case in hand, as recorded by learned Sessions Judge in the impugned judgment, are reproduced as under:

"2. Brief stated the facts of the complaint are that the complainant is a businessman and the accused was having cordial relations with him. As and when required the accused had been borrowing the money from the complainant for his personal needs. Usually, the accused had taken a personal friendship loan of 2,00,000/- in mid of January, 2014 for the period of eight months. In discharge of his legal liability, the accused issued a cheque No.466855 dated 23.09.2014 of Rs.2,00,000/- drawn on SBI. New Colony, Gurugram. The said cheque was presented by complainant with his banker, namely, Axis Bank Ltd., Laxmi Bazar, Gurugram, but the said cheque was returned unpaid vide memo dated 27.09.2014 with remarks "Insufficient Funds" When the complainant approached the accused then the accused failed to honour his liability. The complainant also issued a legal notice dated 27.10.2014 by registered AD through his counsel. Thereafter, despite being served with legal notice the accused did not make the payment within mandatory period of 15 days of the cheque amount. Hence, the accused has committed the offence punishable under Section 138 of the Negotiable Instruments Act, 1881."

3. At the outset, learned counsel for the petitioner submits that matter stands settled as entire cheque amount has been paid to the complainant/respondent No.1 herein.

4. Learned counsel for the petitioner further submits that parties have compromised the matter. Learned counsel for petitioner further contends that per affidavit

dated 02.12.2022 (Annexure P-2) of respondent no.1/complainant, he has received full and final payment from petitioner herein and does not want to pursue the case any further. He also refers to statement dated 23.08.2022 (Annexure P-3) of complainant/respondent no.1 herein, wherein the execution petition filed by him was sought to be dismissed as fully satisfied as he had received the settled amount of Rs.2.5 lakh. Learned counsel for petitioner further submits that in view of the aforesaid statement (Annexure P-3), the execution petition was disposed of as fully satisfied, by learned Court below vide order dated 23.08.2022 (Annexure P-1).

5. The dispute herein is private in nature and parties have settled their differences and arrived at an amicable settlement, as aforesaid. Offence committed by the petitioner is only against the complainant and not a crime against society at large. The criminal charges were earlier pressed by the private respondent no.1 against the petitioner. It is not a case where State is the prosecutor. Respondent no.1 himself has withdrawn the execution petition filed before learned trial Court, as he has received the settled amount.

6. Today none has appeared on behalf of respondent no.1. As noted above, it is apparently indicative that he has no objection in case the instant revision petition is allowed and in other words his complaint against petitioner is dismissed.

7. Parties are known to each other and wish to now live congenially in future rather than maintaining hostility which once occurred due to dishonor of the cheque, resulting in court proceedings *ibid*. In totality of the circumstances, I am thus of the view that petitioner deserves to be acquitted.

8. As an upshot of the above discussion and also for the grounds stated in the petition, for mutual peace and future bonhomie between the parties, and in the larger public interest, instant revision petition is accepted. Accordingly, the impugned judgement of conviction and order of sentence recorded by both Courts below are set

aside. Petitioner is acquitted of the charges levelled against him. In case petitioner is in custody, he be released forthwith.

- 9. Petition is allowed accordingly.
- 10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

18.08.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No