

**234 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-326-2023 (O&M)
Date of decision : 18.04.2023**

Sanjay Kumar Rajora

.....Petitioner

versus

Sandeep Kumar

..... Respondent

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Bhisham Kumar, Advocate
for the petitioner.

Mr. Yashveer Kharb, Advocate
for the respondent.

RAJESH BHARDWAJ, J. (Oral)

This revision petition has been filed by the petitioner impugning the order dated 10.08.2022 passed by learned Additional Sessions Judge, Panipat vide which appeal filed by the petitioner against the judgment dated 04.01.2019/15.01.2019 passed by learned Judicial Magistrate Ist Class, Panipat convicting the petitioner for the offence under Section 138 of Negotiable Instruments Act and sentencing to undergo simple imprisonment for one year and to pay compensation of Rs.2,70,000/- to the complainant along with Rs.10,000/- as litigation expenses, has been dismissed affirming the judgment passed by learned Judicial Magistrate Ist Class, Panipat.

As per facts of the case, the complainant and accused had entered into an agreement dated 10.06.2013 whereby the accused i.e. present petitioner agreed to provide the complainant job work of

submitting the forms of Aadhar Card on commission @ Rs.7/- per card. As per agreement, complainant paid Rs.2,00,000/- to the accused and the accused had undertaken to provide required equipments and machinery to the complainant which he never provided. When the complainant demanded his money back, accused issued a cheque No.221081 dated 25.12.2013 for Rs.2,00,000/-. On presentation, the cheque was dishonoured vide Memo dated 27.12.2013 bearing remarks 'funds insufficient'. Demand notice was sent to the accused through post and the same was returned unclaimed. Ultimately, the complaint was filed against the petitioner. On conclusion of the trial, petitioner was convicted and sentenced by the trial Court vide order dated 04/05.01.2019 to undergo simple imprisonment for a period of one year and also to pay compensation of Rs.2,70,000/- to the complainant. Aggrieved by the same, petitioner filed an appeal which was dismissed vide order dated 10.08.2022 by the Appellate Court upholding the conviction and sentence as awarded by the learned trial Court. Aggrieved by the same, petitioner has filed the present revision petition.

Learned counsel for the petitioner has stated that during the pendency of revision petition, the matter was referred to Mediation and Conciliation Centre, District Court, Panipat vide order dated 20.03.2023 and the parties have settled the matter for Rs.2,30,000/- and have decided to bury the hatchet. Learned counsel has further stated that the petitioner has already paid an amount of Rs.1,00,000/- to the complainant and has agreed to pay an amount of Rs.1,30,000/- on or before 10.07.2023. He has stated that in view of the settlement effected between the parties, prosecution of the petitioner would be nothing but an abuse of the process

of the Court and thus, the petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Negotiable Instruments Act in view of the law laid down by Hon'ble Supreme Court in **Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (CrL.) 851.** He has further relied upon the judgment dated 18.09.2013 passed in CRR-3275-2012 titled as **Karam Chand Mittal Vs. Gian Chand and another.**

Learned counsel for the respondent has affirmed the contention raised by counsel for the petitioner and has stated that he has no objection if the present petition is allowed. He has further prayed that he be given liberty to approach this Court in case the petitioner fails to make the payment of remaining amount of Rs.1,30,000/- to him on or before the agreed date of 10.07.2023.

Heard. As per report received from the Chief Judicial Magistrate, Panipat, the matter has been settled between the parties and the petitioner has paid an amount of Rs.1,00,000/- (out of agreed amount of Rs.2,30,000/-) to the complainant and has agreed to pay remaining amount of Rs.1,30,000/- on or before 10.07.2023. In view of the settlement effected between the parties and the law laid down by Hon'ble Supreme Court in **Damodar's case (supra)**, offence is compounded and the petitioner is acquitted of the charges framed against him under Section 138 of the Negotiable Instruments Act subject to his deposit Rs.40,500/- (15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. The order dated 04/05.01.2019 passed by the Judicial Magistrate Ist Class, Panipat and also judgment dated 10.08.2022 passed by learned Additional Sessions Judge, Panipat affirming the order of conviction and

sentence of petitioner are *set aside*.

Petitioner is directed to file receipt of abovesaid amount of Rs.40,500/- in the office within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within the said period, the office is directed to list the present case in the ordinary list as IOIN for further orders. In case the petitioner fails to make payment of Rs.1,30,000/- to the complainant on or before the agreed date i.e. 10.07.2023, respondent would be at liberty to approach this Court and file appropriate application for redressal of his grievances.

Revision petition is allowed in above terms.

18.04.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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