

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(Sr. No. 260)

CRM-M-5545-2023 (O&M)

Date of decision : 13.04.2023

M/s Prakash Marketing and another

..... Petitioners

Versus

M/s Bectors Food Specialities Ltd.

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Vishal Garg Narwana, Advocate and
Mr.Arishdeep Mraad, Advocate, and
Mr.Vasu Shandilya, Advocate, for the petitioners.
Ms.Sumanjit Kaur, Advocate, for the respondent.

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DEEPAK SIBAL J.(Oral)

(1) Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of order dated 04.01.2023 through which the Additional Sessions Judge, Ludhiana (for short, the appellate court) rejected an application filed by the petitioners seeking therein permission to compound the offence under the Negotiable Instruments Act, 1881 (for short, the Act). It is further prayed that since the petitioners are willing not only to pay to the respondent the entire cheque amount but also ready to reasonably compensate it, the complaint bearing No.COMA/9229/2017-*M/s Bectors Food Specialities Ltd. vs. M/s Prakash Marketing and another*, along with all consequent proceedings, including the petitioners' conviction, be quashed in the light of the guidelines laid down by the Supreme Court in *Damodar S.Prabhu vs. Sayed Babalal H.* (2010) 5 SCC 663.

(2) The respondent filed a complaint under Section 138 of the Act

before the Judicial Magistrate Ist Class, Ludhiana (for short, the trial court) through which the petitioners were sought to be prosecuted for dishonour of a cheque given by them to the respondent for an amount of Rs.2,65,000/-. After sifting the evidence led by both parties, through judgment dated 13.01.2020 the trial court convicted and sentenced petitioner No.2 to undergo rigorous imprisonment for one year and to pay fine of Rs.2,000/-. Directions were also given to pay the cheque amount as compensation. The petitioners filed an appeal against the afore conviction and sentence and while the same was pending, they filed an application seeking therein issuance of directions by the appellate court for compounding of the offence on the ground that the petitioners were ready to pay to the respondent not only the cheque amount but also reasonably compensate it. Since the respondent did not give its consent to the petitioners' proposal, the appellate court dismissed the petitioners' application. It is in these circumstances that the petitioners have knocked the doors of this Court seeking relief which was denied to them by the appellate court.

(3) The present petition came up for preliminary hearing before this Court on 02.02.2023 on which date learned counsel for the petitioners submitted that the petitioners were not only ready to pay to the respondent the entire cheque amount of Rs.2,65,000/- but also to further compensate it to the tune of Rs.1,35,000/-. It was further submitted that the petitioners were also willing to deposit costs in terms of the guidelines issued by the Supreme Court in *Damodar S.Prabhu's* case (supra).

(4) In the light of the afore submissions this Court issued notice in response to which Ms.Sumanjit Kaur, Advocate, appeared on the respondent's behalf. Thereafter, the petitioners and the respondent have agreed to finally

bury the hatchet in case the petitioners would pay to the respondent full and final amount of Rs.4,22,000/-.

(5) Admittedly, the petitioners have not only paid the agreed amount to the respondent but have also deposited 15% of the cheque amount with the Legal Services Authority, Punjab.

(6) In *Damodar S.Prabhu's* case (supra) the Supreme Court had laid down guidelines as to under which circumstances offences under the Act could be compounded. These guidelines read as under: -

“21.With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed :

THE GUIDELINES

(i) In the circumstances, it is proposed as follows :

(a) That directions can be given that the writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.”

(7) The case of the petitioners for compounding squarely fits within the afore guidelines.

(8) In the light of the above, the present petition is allowed. The

offence for which petitioner No.2 has been convicted by the trial court is ordered to be compounded. Resultantly, complaint bearing No.COMA/9229/2017-M/s *Bectors Food Specialities Ltd. vs. M/s Prakash Marketing and another* and all subsequent proceedings thereto stands quashed.

No costs.

13.04.2023
shamsher

[DEEPAK SIBAL]
JUDGE

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