

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

CRR-410-2023 (O&M)
Date of decision : 24.2.2023

Balwinder Singh

.....Petitioner(s)

Versus

State of Haryana and another

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Kushagar Goyal, Advocate for the petitioner(s)

Mr.Tanuj Sharma, AAG, Haryana

Mr.Brijesh Kumar, Advocate for respondent No.2.

AMAN CHAUDHARY, J.

The present criminal revision is directed against the judgment dated 19.1.2013 passed by the learned Sessions Judge, Sirsa, affirming the the judgment of conviction and order of sentence dated 27/28.11.2018 passed by learned Judicial Magistrate 1st Class, Sirsa vide which the petitioner was sentenced to undergo for a period of one year under Section 138 of the Negotiable Instrument Act and also directed to pay compensation to the tune of Rs.5,06,000/- to the complainant.

At the outset, learned counsel for the petitioner contends that the matter in dispute has been settled between the parties. The settled amount alongwith the compensation as awarded by the trial Court has been paid to the complainant. He has also placed on record of the compromise deed, Annexure P-1 and also affidavit of the complainant in this regard. He has also filed in application i.e. CRM-7188-2023 seeking permission for

compounding the offence under Section 138 of NI Act. He Further submits that for compounding the offence, he is ready to deposit the compounding fee as per the law laid down by Hon'ble The Supreme Court of India in the case of **Damodar S.Prabhu vs. Sayed Babalal H.**, 2010(5) SCC 663.

Learned counsel for respondent No.2- complainant admits the factum of compromise and receipt of the settled amount. He further submits that he has no objection if the prayer made by the petitioner is accepted.

Heard.

It is apposite to make a reference to the compromise, Annexure P-1, which reads thus:

“Parmod son of Sh.Bal Kishan resident of Village Natar Tehsil and Distt. Sirsa now at J J Colony Sirsa.

--First party

Balwinder Singh son of Sher Singh resident of Village Mangala Distt. Sirsa.

..Second party

That the complainant had filed a complaint under Section 139 N.I. Act against the second party, in which the second party was convicted and second party filed an appeal against the order of the Ld. Lower Court. The second party preferred an appeal before the Hon'ble Sessions Court Sirsa which has been dismissed by the court of Smt. Vani Gopal Sharma Hon'ble Sessions Courts, Sirsa on 19-1-23.

Now both the parties have arrived at compromise with each other and First party has received the settled amount along with compensation etc. Hence now First party has no claim against the second party. The First party will ever be ready to make statement and to sign etc. whenever required the same. The First party will also not do any proceedings of any type against the Second party in future. This compromise has been executed by the sweet will of both the parties and both the parties have read over the same and put their signature on it.”

The Hon'ble Supreme Court of India in the matter of **Damodar**

S. Prabhu (supra) with regard to compound of offence in the cheque

bouncing cases, framed the following 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.

Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority."

Considering the aforesaid facts and circumstances of the case, the matter having been since compromised as stands affirmed by the respondent-complainant, on receipt of the amount in terms thereof and the no objection given to compounding of the offence, the present revision petition is allowed. The judgments of conviction/ order of sentence

recorded by the trial Court and affirmed by the Appellate Court are hereby set aside and the petitioner is acquitted of the charges. The aforesaid shall however, be subject to deposit of 15% of the cheque amount by the petitioner as costs, with the Haryana State Legal Services Authority within a period of one month, in view of the law laid down in the case of **Damodar S.Prabhu's** (supra). The petitioner be set at liberty forthwith, if not required in any other case. However, in case, the petitioner fails to deposit the costs within the stipulated period, the present revision petition shall be deemed to have been dismissed without further reference to this Court.

Pending applications, if any, stand disposed of accordingly.

A copy of this judgment be sent to the Member Secretary, State Legal Services Authority, Haryana for information and necessary action.

24.02.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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