

CRR-382-2023 (O&M)

-1-

259

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-382-2023 (O&M)
Date of Decision: 04.09.2023

SURENDER RATHI

... Petitioner

Versus

PAWAN YADAV AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner.

Mr. Anmol Pratap Singh Mann, Advocate
for respondent No.1.

Mr. Neeraj Poswal, Asst. A.G., Haryana
for respondent No.2.

JASJIT SINGH BEDI, J (Oral)

CRM-34682-2023

This is an application filed under Section 147 of the NI Act for compounding of the offence in view of the fact that the matter has been compromised between the parties.

Allowed as prayed for subject to all just exceptions.

CRR-382-2023

The present revision petition has been filed against the judgment dated 30.01.2023 passed by the Additional Sessions Judge, Gurugram, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 30.03.2017/31.03.2017 passed by the learned Judicial Magistrate, 1st Class, Gurgaon, has been dismissed.

2. The brief facts of the case are that in discharge of his legal liability, the accused/petitioner issued cheques bearing No.686169, 686170 and 686171 dated 29.08.2011 for an amount of Rs.30,00,000/- each in favour of respondent No.1/complainant which came to be dishonoured. Pursuant thereto, the accused came to be summoned under the provisions of the 138 of the Negotiable Instruments Act, 1881 vide order dated 30.03.2017/31.03.2017 passed by the JMIC, Gurgaon.

3. The evidence was led and ultimately, the accused was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of 01 year. The accused was also ordered to pay an amount of Rs.95,00,000/- as compensation to the complainant.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused preferred an appeal before the Additional Sessions Judge, Gurugram, which came to be dismissed on 30.01.2023.

5. Still aggrieved, the present revision petition has been preferred by the accused. During the pendency of the present criminal revision petition, a compromise has been arrived at between the parties on 10.08.2023 (Annexure A-4). It would be relevant to mention here that a combined reading of Section 147 of the Negotiable Instruments Act alongwith Section 320 Cr.P.C. would establish that where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for respondent No.1/complainant has accepted the factum of the compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him as against three cheques of Rs.30,00,000/- totaling to Rs.90,00,000/-, a settlement has been arrived at for Rs.20,00,000/-.

7. I have heard the learned counsel for the parties.

8. This Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-

“4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-

“Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

9. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and

Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

10. The admitted position is that the matter stands settled and the compromise/settlement between the parties dated 10.08.2023 (Annexure A-1) is already on record.

11. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

12. Accordingly, the revision petition is allowed and the judgment dated 30.01.2023 passed by the Additional Sessions Judge, Gurugram and the judgment of conviction and order of sentence dated 30.03.2017/31.03.2017 passed by the Judicial Magistrate, 1st Class, Gurgaon, are hereby set aside. The petitioner is acquitted of the charges under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

04.09.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No