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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-510-2022 (O&M)

Date of decision : 13.03.2023

Suresh Kumar

.....Petitioner

versus

Bal Kishan

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rajiv Sharma, Advocate
for the petitioner.

Mr. Naresh Paul Chander, Advocate
for the respondent.

RAJESH BHARDWAJ, J. (ORAL)

CRM-6605-2023

Application is allowed as prayed for. Receipt showing payment of Rs.1,80,000/- to the District Legal Services Authority, Karnal is taken on record as Annexure P-3.

CRR-510-2022 (O&M)

This revision has been filed by the petitioner impugning the order dated 10.03.2022 passed by learned Additional Sessions Judge, Karnal whereby the conviction and sentence awarded by learned Judicial Magistrate Ist Class, Karnal vide order dated 05/07.11.2016 in Complaint No.1955 of 2015 has been upheld.

As per facts of the case, the accused i.e. present petitioner who was having friendly relations with the complainant approached him in the month of February, 2015 and requested for advancing him Rs.12,00,000/- which was required by him for his business of building material. The complainant advanced the said loan in the month of April, 2015 which the

accused i.e. present petitioner promised to repay within a period of 15 days thereafter and in discharge of his legal liability, accused issued a cheque amounting to Rs.12,00,000/- but the same was dishonoured on being presented in the Bank with the remarks “account closed”. When the complainant again approached the petitioner then petitioner issued a new cheque bearing No.603249 dated 05.06.2015 of Rs.12,00,000/- drawn at ICICI Bank Ltd., Karnal and assured that he would reopen his account and the cheque would be honoured but again when the cheque was presented it was dishonoured with the remarks “account closed” vide memo dated 06.06.2015. Thereafter, a legal notice dated 04.07.2015 was issued to the accused/petitioner but he did not reply the same and ultimately, complaint under Section 138 of the Negotiable Instruments Act was filed.

On the conclusion of trial, the petitioner was convicted and sentenced by trial Court vide order dated 05/07.11.2016 to undergo rigorous imprisonment for a period of one year and to pay an amount of Rs.12,00,000/- to the complainant as compensation. Aggrieved by the same, petitioner preferred an appeal and the Appellate Court while dismissing the appeal vide its order dated 10.03.2022 upheld the conviction and sentence as awarded by learned trial Court. Aggrieved by the same, petitioner has filed the present revision petition.

Learned counsel for the petitioner has stated that in compliance to orders dated 17.03.2022 and 20.07.2022 passed by this Court, the petitioner has already deposited two demand drafts of Rs.12,00,000/- with the Registry of this Court and the matter has been settled. He has further submitted that an amount of Rs.12,00,000/- lying with the Registry of this Court be released to the complainant and 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 stated that in view of order dated 16.09.2022, the petitioner has also deposited Rs.1,80,000/- i.e. 15% of the cheque amount with the District Legal Services Authority, Karnal and receipt in this regard has been placed on record today itself.

Learned counsel for the respondent has affirmed the contentions raised by learned counsel for the petitioner and has prayed that the amount of Rs.12,00,000/- lying deposited in the High Court be ordered to be released to the complainant and he has no objection if the offence is allowed to be compounded and the petitioner is acquitted of the charges framed against him.

In view of the settlement arrived at between the parties and the law laid down by the Hon'ble Supreme Court in **Damodar S. Prabhu's case** (supra), offence is compounded and the petitioner is acquitted of the charges framed against him under Section 138 of Negotiable Instruments Act, 1881. Registry is directed to release the amount of Rs.12,00,000/- lying deposited in the shape of two demand drafts to the complainant forthwith against proper receipt/identification.

CRM-35071-2022 moved for release of demand draft of Rs.12,00,000/- to the complainant stands allowed.

Revision petition is allowed in above terms.

13.03.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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