

**104+210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-692-2023 (O&M)

Date of Decision: 12.05.2023

Puneet Sareen

..... Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amanpreet (A.P.) Singh, Advocate, for the petitioner.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab.

Mr. Saransh Sabharwal, Advocate, for respondents No.3 to 5.

Rajesh Bhardwaj, J. (Oral)

CRM-20246-2023

This is an application for impleading the legal heirs of respondent No.2 as respondents No.3 to 5 as mentioned in the application in para No.3.

Notice in the application.

Mr. Karunesh Kaushal, Assistant Advocate General, Punjab, accepts notice on behalf of the State and Mr. Saransh Sabharwal, Advocate, accepts notice on behalf of respondents No.3 and 5.

Learned counsel for respondents No.3 to 5 has stated that respondent No.2 has died and he has no objection, if the present application is allowed.

For the reasons mentioned in the application, the same is allowed. The legal heirs of respondent No.2 are ordered to be impleaded as respondents No.3 to 5.

CRM-20248-2023

Allowed as prayed for. Annexures P-1 to P-3 are taken on record.

Main case

With the consent of the parties, the revision petition, which is already admitted, is taken on board for hearing today itself.

This revision has been filed by the petitioner against the judgment of conviction dated 26.02.2016 passed by the learned JMIC, Ludhiana and judgment dated 27.02.2023 passed by the learned Additional Sessions Judge, Ludhiana, affirming the judgment dated 26.02.2016 whereby the petitioner was convicted in a complaint case titled as Naresh Kumar vs. Puneet Sharma, under Section 138 of Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.2,000/-.

As per facts of the case, the accused-petitioner took a friendly loan of Rs.3,50,000/- from the complainant-respondent and agreed to return the same within short period. However, the accused did not stick to his promise and did not return the said loan amount to the complainant within the stipulated period. The complainant approached the accused several times with a request to return the loan amount, but the accused kept on postponing the matter. However, on persistent requests, the accused in order to discharge his existing legal liability towards the complainant, issued a cheque bearing No.217423 dated 18.12.2008 for an amount of Rs.3,50,000/- drawn on Punjab National Bank, Haibowal Kalan, Ludhiana with an assurance to the complainant that the cheque would be duly honoured. However, on presentation of cheque before the concerned Bank, the same was dishonoured vide memo dated 18.03.2009 with remarks "Funds Insufficient". Thereafter, the complainant got served a notice dated 01.04.2009 to the accused calling upon him to make the payment of the cheque amount, but despite that the accused failed to make payment and

thus, complaint was filed. On the conclusion of trial, the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act, to undergo rigorous imprisonment for a period of one year vide order dated 26.02.2016. Aggrieved by the same, the petitioner filed an appeal and the learned Appellate Court dismissed the same vide order dated 27.02.2023. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

Learned counsel for the petitioner has submitted that after the conviction and sentence by both the Courts below, with the intervention of the respectables, the matter has been settled between the petitioner and the respondent No.3 to 5 (legal heirs of respondent No.2-complainant) and they have no objection if the conviction and sentence of the petitioner is set aside. He submits that the compromise arrived at between the parties is annexed with the petition as Annexure P-2. He has submitted that the parties have settled the dispute for Rs.1,50,000/- to be paid by the petitioner to the legal heirs of the complainant and the said amount has been paid to respondent No.4 (Anmol son of the deceased complainant) vide Annexure P-3 and now nothing is due against him. He has further submitted that once the parties have settled the dispute amicably, then in view of the law settled, the petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of 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.**

Learned counsel for respondent No.3 to 5 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that respondent No.4 i.e. the son of the complainant has received the settled amount of Rs.1,50,000/- and respondents No.3 to 5 have no objection if

the present petition is allowed.

As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioner, who has already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent No.3 to 5. In view of the compromise effected 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, subject to his depositing Rs.52,500/- (being 15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of four weeks from today. The order dated 27.02.2023 passed by the learned Additional Sessions Judge, Ludhiana and order dated 26.02.2016 passed by the learned JMIC, Ludhiana awarding conviction and sentence to the petitioner as stated above are set aside.

Petitioner is directed to file receipt of abovesaid amount of Rs.52,500/- in the office/Registry of this Court within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within four weeks from today, the office is directed to list the present case in the ordinary list as IOIN for further orders.

Revision petition is allowed in above terms.

Learned counsel for the petitioner has pointed out that the petitioner is in custody and his sentence has not been suspended till date.

In view of the fact that the main revision petition has been allowed and the orders of conviction and sentence dated 26.02.2016 and 27.02.2023 have been set aside, the petitioner be set at liberty forthwith, if not required in any other case. CRM-12299-2023 moved by the petitioner

for suspension of sentence is rendered infructuous and is disposed of as such.

12.05.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No