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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-9308-2019 in/and
CRR-649-2019 (O&M)
Date of Decision: 15.05.2023

Jaspreet Singh

..... Petitioner

Versus

Patran Finance Limited and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ramandeep, Advocate
for the petitioner.

Mr. Gurcharan Singh Bains, Advocate
for respondent No.1.

Mr. Harjinder Singh Sidhu, AAG, Punjab
for respondent No.2/State.

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<u>HARSH BUNGER J. (ORAL)</u>

1. Petitioner (Jaspreet Singh) has filed the present petition seeking setting aside of impugned judgment of conviction and order of sentence dated 06.02.2015 passed by the Court of Sub Divisional Judicial Magistrate, Samana, whereby the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act. Further prayer has been made to set aside impugned judgment dated 25.08.2015 passed by the Court of Additional Sessions Judge, Patiala, whereby the appeal filed by the petitioner against the aforesaid judgment of conviction and order of sentence dated 06.02.2015, was dismissed.

2. Learned counsel for the petitioner submits that the petitioner was convicted under Section 138 of the Negotiable Instruments Act vide judgment dated 06.02.2015 passed by the Court of Sub Divisional Judicial Magistrate, Samana. Vide a separate order of even date, the petitioner was sentenced as under:

Offence u/s	**Imprisonment**
138 of the Negotiable Instruments Act	To undergo imprisonment for a period of two years along with payment of fine to the tune of Rs.10,000/- and in default thereof, to further undergo simple imprisonment for a period for one month

3. Being aggrieved by the aforesaid judgment of conviction and order of sentence dated 06.02.2015, the petitioner filed an appeal before the Court of Additional Sessions Judge, Patiala, however, the same was dismissed vide judgment dated 25.08.2015. Accordingly, the petitioner has filed the present revision petition before this Court.

4. In the grounds of revision petition, the petitioner has taken a categorical stand that after passing of the judgment dated 25.08.2015 by the Court of Additional Sessions Judge, Patiala, the matter was amicably settled between the petitioner and respondent No.1 vide compromise dated 10.03.2019 and all the dues stand paid to the respondent No.1.

5. Taking note of the aforesaid compromise, a co-ordinate Bench of this Court had passed the following order on 18.03.2019:-

"***CRM-9306-2019***

CRM is for condonation of 1496 days delay in filing the revision.

Notice of the application.

Since the matter has been compromised between the parties, therefore, in view of the averments made in the application, delay of 1496 days in filing the revision is condoned.

CRM stands allowed.

CRM-649-2019(O&M)

Notice of motion in the main revision as well as in the application for compounding of offence.

Mr. G.S. Bains, Advocate appears and files Vakalatnama on behalf of respondents No.1, same is taken on record.

On the asking of the court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of respondent no.2. Copy of the petition supplied to him.

Learned Counsel for the petitioner as well as respondent No.1 jointly stated that the matter has been compromised between the parties.

Petitioner will file his affidavit that there is no other criminal case pending against him and also give the details of any other FIR(s), which have already been quashed on the basis of compromise.

In view of above, let the parties appear before Mediation and Conciliation Centre of this Court on 26.03.2019 for recording of their statements with regard to compromise and a report of their statements with regard to compromise and a report in this regard be submitted to this Court on 08.04.2019.

Since the matter has been compromised between the parties, in the meanwhile, sentence imposed upon the petitioner Jaspreet Singh, shall remain suspended till the next date of hearing on furnishing bail bonds / surety bonds to the satisfaction of learned Chief Judicial Magistrate / Duty Magistrate, concerned."

6. In pursuance of the aforesaid order, parties had appeared before

the Mediation and Conciliation Centre of this Court, whereupon a report has been submitted by the Mediator that both the parties have settled their dispute by way of amicable settlement. Copy of the aforesaid settlement/agreement dated 04.04.2019 is already on record, wherein Clauses 5 to 7 read thus:

> "*5. The parties hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement/Agreement dated 10.03.2019 and the petitioner/first party has given a Cheque No.733401 of SBI, Village Kussa (Distt. Moga) from the Account No.20457297559 of Mandeep Kaur w/o Petitioner for an amount of Rs.2,29,500/- (Rupees Two Lacs Twenty Nine Thousand and Five Hundred Only) to the respondent No.1/second party. The second party has confirmed the receipt of payment of the cheque amount of Rs.2,29,500/-*
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> *6. Both the parties have agreed that this will be the full and final payment towards the settlement of cheque dispute between them and nothing remains due towards the first party.*
>
> *7. It has been mutually agreed between the parties that the second party shall have no objection if present Criminal Revision Petition No.649 of 2019 filed by the first party is allowed by the Hon'ble High Court in view of the compromise.*"

7. Today, learned counsel for the parties have appeared and have admitted the factum of compromise arrived at between the parties vide settlement/agreement dated 04.04.2019.

8. In view of the aforementioned circumstances, once the parties have settled their dispute then in terms of the judgment passed by the Hon'ble Supreme Court in "***Vinay Devanna Nayak Vs. Ryot Seva Sahakari Bank Ltd.", 2008(1) R.C.R. (Criminal) 249***, the offence committed by the

petitioner for which he has been convicted, is compoundable. Relevant paragraphs therefrom are extracted below:-

> "*17. As observed by this Court in* ***Electronic Trade & Technology Development Corporation Ltd. v. Indian Technologists & Engineers, 1996(1) RCR (Criminal) 592 : (1996)2 SCC 739****, the object of bringing Section 138 in the statute book is to inculcate faith in the efficacy of banking operations and credibility in transacting business on negotiable instruments. The provision is intended to prevent dishonesty on the part of the drawer of negotiable instruments in issuing cheques without sufficient funds or with a view to inducing the payee or holder in due course to act upon it. It thus seeks to promote the efficacy of bank operations and ensures credibility in transacting business through cheques. In such matters, therefore, normally compounding of offences should not be denied. Presumably, Parliament also realised this aspect and inserted Section 147 by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002. (Act 55 of 2022). The said section reads thus:*
>
> *S.147. Offences to be compoundable. - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.*
>
> *18. Taking into consideration even the said provision (Section 147) and the primary object underlying Section 138, in our judgment, there is no reason to refuse compromise between the parties. We, therefore, dispose of the appeal on the basis of the settlement arrived at between the appellant and the respondent.*
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> *19. For the foregoing reasons the appeal deserved to be allowed an dis accordingly allowed by holding that since the matter has been compromised between the parties and the amount of Rs.45,000/- has been paid by the appellant towards full and final settlement to the respondent-bank towards its*

> *dues, the appellant is entitled to acquittal. The order of conviction and sentence recorded by all courts is set aside and he is acquitted of the charge levelled against him.*"

9. Accordingly, in view of the settlement arrived at between the parties, the application for compounding of offence (CRM-9308-2019) is allowed, the judgment of conviction and order of sentence dated 06.02.2015 passed by the Court of Sub Divisional Judicial Magistrate, Samana, against the petitioner, and also judgment dated 25.08.2015 passed by the Additional Sessions Judge, Patiala, are set aside and the petitioner is acquitted from all the charges levelled against him in the present case; however, the same shall be subject to deposit of compounding fee/cost of 15% of the total cheque amount in question, by the petitioner, in terms of the judgment rendered by the Hon'ble Apex Court in "***Damodar S. Prabhu Vs. Sayed Babalal H.***", ***2010 (5) SCC 663*** with the Punjab State Legal Services Authority, within a period of 30 days from the date of receipt of the certified copy of this order.

10. After depositing of the aforesaid compounding fee/cost by the petitioner, he shall place on record a copy of receipt thereof and Registry is directed to submit report in this regard.

11. Present petition is disposed of in the aforesaid terms.

12. All pending application(s), if any, shall also stand disposed of.

15.05.2023 **(HARSH BUNGER)**
Apurva **JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No