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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-32929-2023 in/and
CRR-850-2020 (O&M)
Date of decision: 09.08.2023**

MUKUL KAPOOR

...Applicant/Petitioner

VS

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Narender Kaajla, Advocate,
for the applicant/petitioner.

Mr. Karan Garg, AAG, Haryana.

None for respondent no.2.

ARUN MONGA, J. (ORAL)

CRM-32929-2023

Application is allowed subject to all just exceptions, as prayed for.

Photocopy of the Memorandum of Settlement/Compromise dated
28.09.2020, is taken on record as Annexure P-1.

Main case

Instant Revision petition has been filed by petitioner against the Judgments dated 28.10.2017 and 17.03.2020 passed by learned Courts below whereby petitioner-accused was held guilty for commission of the offence punishable under Section 138 of Negotiable Instrument Act, 1881 (for short 'the Act') and sentenced to undergo simple imprisonment for one year and to pay compensation of Rs.4,20,000/- to the complainant/respondent no.2.

2. Succinct facts first, as pleaded in the petition.

2.1. Complainant/respondent no.2 herein filed a complaint under Section 138 of the Act against petitioner herein on the allegations that petitioner had

obtained loan of Rs.2,80,000/- from respondent as friendly loan for a period of six months. Petitioner issued a cheque bearing No.309600, dated 21.04.2014 to discharge his liability to pay the aforesaid loan amount. When presented, the cheque was returned as unpaid vide memo dated 27.06.2014 with remarks "Insufficient Funds". Respondent no.2 issued legal notice dated 25.07.2014 to the petitioner calling upon him to make the payment but no payment was made. Respondent filed the complaint under Section 138 of the Act. After completion of trial, learned Judicial Magistrate First Class, Faridabad, vide judgment of conviction and order of sentence dated 28.10.2017 convicted and sentenced the petitioner, as aforesaid. Being aggrieved, petitioner had preferred criminal appeal, which was also dismissed by learned Additional Sessions Judge, Faridabad, vide judgment dated 17.03.2020. Hence, the instant revision petition.

3. Notice of motion was issued on 23.07.2021.

4. Upon an application filed, vide order dated 13.10.2021 the sentence of the petitioner was suspended during the pendency of the revision on the ground that matter has been settled out of Court and the petitioner has paid the entire amount to respondent no.2.

5. Today, learned counsel for petitioner, at the outset, submits that private parties have compromised the matter vide compromise dated 28.09.2020 (Annexure A-1). He seeks compounding of the offence and disposal of the instant revision petition on the basis of compromise arrived at between the parties.

6. Per compromise (Annexure A-1), respondent no.2 herein (complainant) does not want to pursue the case any further as payment of the cheque amount has been made to respondent no.2 and he has no objection if the petitioner herein is discharged. Since none appears for the complainant/respondent no.2, it is suggestive that compromise has indeed been arrived at, as it is borne out from the signatures of the parties on the deed of compromise.

7. In view of the above, present revision petition is allowed by holding that, since the matter has been compromised between the parties amicably, petitioner is entitled to acquittal. The orders of conviction and sentence recorded by both Courts below are set aside, and the petitioner is acquitted of the charge levelled against him. The petitioner is stated to be on bail. His bail bonds shall stand discharged.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

09.08.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No