

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-840-2023 (O& M)
Date of decision: 24.08.2023Satnam Singh Petitioner
V/s

Varinder Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDIPresent: Mr. Pankaj Garg, Advocate,
for the petitioner.Mr. Nitish, Advocate,
for Mr. Kuldip Singh, Advocate, for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 04.07.2022 passed by the Sessions Judge, Mansa vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 29.08.2018 passed by the Additional Chief Judicial Magistrate, Mansa, has been dismissed.

2. Briefly, the facts of the case are that the accused-petitioner was a Government employee. The accused/petitioner assured the complainant/respondent that he would get his son-Rishi Kant employed in Government job and demanded Rs.1,00,000/-. As the accused was known to the complainant, he paid Rs.1,00,000/- to him (accused). But accused did not get his son employed in the Government job. When, the complainant demanded Rs.1,00,000/-, the accused in order to discharge his legal liability issued a cheque bearing No.823425 dated 16.03.2017 for a sum of Rs.1,00,000/- drawn on State Bank of Patiala, Branch Sardulgarh from his

in the State Bank of India, ADB, Mansa for encashment but the same was returned on 17.03.2017 with remarks 'funds insufficient'. The complainant got issued a legal notice to the accused on 12.04.2017. But neither was any reply filed by the accused to the aforesaid legal notice nor was any payment made.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face the trial. The evidence was led and ultimately, he 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 02 years and to pay fine of Rs.10,000/- which was converted into compensation payable to the complainant.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Sessions Judge, Mansa, which came to be dismissed on 04.07.2022.

5. Still aggrieved, the present revision petition has been preferred by the petitioner.

6. The learned counsel for the petitioner while referring to a compromise by way of an affidavit of the respondent-Varinder Kumar submits that the matter has been settled amicably to the entire satisfaction of both the parties and now the parties shall not claim any further amount or costs in this matter. Both the parties have agreed to relinquish all their rights arising out of this matter. The aforesaid compromise/affidavit is taken on record as Mark 'A'.

7. It would be relevant to mention here that a perusal of Section

show 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 arrived at between the parties.

8. The learned counsel for the complainant-respondent has accepted the factum of compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

9. I have heard the learned counsel for both the parties.

10. 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.”

11. 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.

12. 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.

13. Accordingly, the revision petition is allowed and the order dated 04.07.2022 passed by the Sessions Judge, Mansa and judgment of conviction and order of sentence dated 29.08.2018 passed by the Additional Chief Judicial Magistrate, Mansa, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

Since the main petition has been disposed of, no order needs to be passed in the criminal miscellaneous application(s), if any.

(JASJIT SINGH BEDI)
JUDGE

August 24, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No