

CRM-15124-2019 in/and
CRR-1096-2019 (O& M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-15124-2019 in
CRR-1096-2019 (O& M)
Date of decision: 29.09.2023**

Paramjit Singh

.... Petitioner

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ankit Joshi, Advocate,
for the applicant-petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Shivjot S. Modgil, Advocate,
Mr. Mukesh Singh, Advocate,
for Mona Goyal, Advocate,
for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

CRM-15124-2019

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 166 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed. The delay of 166 days in filing the present revision petition is condoned.

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CRR-1096-2019

The present revision petition has been filed against the judgment dated 23.08.2018 passed by the Additional Sessions Judge, Bathinda vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 28.02.2017 passed by the Judicial Magistrate, 1st Class, Bathinda has been dismissed.

2. Briefly, the facts of the case are that the petitioner-accused had issued a cheque No.014836 dated 16.09.2014 for a sum of Rs. 51,000/- of his account drawn on Union Bank of India, Branch Bathinda in discharge of his liability and assured the complainant that the said cheque would be duly honoured when the same would be presented for encashment by the complainant. On presentation of the aforesaid cheque for clearance to bank of the accused, the same was dishonoured and was returned to the bank of the complainant alongwith cheque returning memo dated 12.12.2014 with remarks 'Funds Insufficient'. Thereafter, the accused was duly served through a legal notice dated 22.12.2014 through the counsel for the complainant but he failed to make the payment of the dishonoured cheque within the stipulated period of the receipt of the registered legal notice.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the accused were summoned to face the trial. The evidence was led and ultimately, accused-petitioner 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 one year and to pay a fine of Rs.2000/-. In default of payment of fine, the accused-petitioner was to

Further undergo simple imprisonment for 15 days. The period of detention

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undergone by the convict-accused was ordered to be set off against the substantive sentence awarded to him.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner-accused as well as the complainant-respondent preferred two separate appeals before the Additional Sessions Judge, Bathinda, which came to be dismissed on 23.08.2018.

5. Still aggrieved, the present revision petition has been preferred by the accused-petitioner. During the pendency of the present criminal revision petition, in compliance with the order dated 08.05.2019, out of the total payment of Rs.51,000/- the petitioner brought a demand draft bearing No.151240303 dated 20.05.2019 for an amount of Rs.25,000/- and handed over to the learned counsel for the respondent No.2/complainant. Thereafter, in terms of orders dated 27.05.2019 and 04.09.2029, a total sum of Rs.55,000/- was paid to the complainant. Thus, a total payment of Rs.80,000/- against a sum of Rs.51,000/- has been paid by the petitioner to the complainant/respondent No.2. Therefore, the matter has been settled amicably to the entire satisfaction of both the parties. Both the parties have agreed to relinquish all their rights arising out of this matter.

6. It would be relevant to mention here that a perusal of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. would 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 effected between the parties.

7. The learned counsel for the complainant-respondent No.2 has accepted the factum of a compromise having been arrived at and states that

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he has no objection if the petitioner is acquitted of the charges framed against him.

8. I have heard the learned counsel for the parties.

9. 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."

10. 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 has been 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.

11. 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.

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12. Accordingly, the present revision petition is allowed and the judgment/order dated 23.08.2018 passed by the Additional Sessions Judge, Bathinda and the judgment of conviction and order of sentence dated 28.02.2017 passed by the Judicial Magistrate, 1st Class, Bathinda are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

13. 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

September 29, 2023
sukhpreet

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