

**109 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR-1020-2023 (O&M)

Date of Decision: 19.04.2023

Jagsir Singh

..... Petitioner

Versus

Gurmeet Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Achin Gupta, Advocate, for the petitioner.

Mr. Nirmaljeet Singh Sidhu, Advocate, for respondent No.1.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (Oral)

This revision has been filed by the petitioner impugning the order dated 17.03.2023 passed by learned Sessions Judge, Bathinda, whereby, the conviction and sentence awarded to the petitioner under Section 138 of the Negotiable Instruments Act in a complaint case CIS No.COMA-3792-2019 by the Court of learned JMIC, Bathinda, vide order dated 07.07.2022 has been upheld.

As per facts of the case, the accused-petitioner was having cordial relations with the complainant-respondent and by taking benefit of cordial relations, he took a friendly loan of Rs.6,75,000/- from the complainant. In order to discharge his legal enforceable liability towards the complainant, the accused-petitioner issued a cheque bearing No.851151 dated 18.07.2019 for an amount of Rs.6,75,000/- drawn on Punjab National Bank, Civil Lines Branch, District Bathinda in favour of the complainant with an assurance that the same shall be honoured as and when presented for its encashment. On presentation, the cheque was dishonoured vide cheque returning memo dated 04.10.2019 with remarks "Account Closed".

Thereafter, the respondent-complainant sent a legal notice dated 14.10.2019 to the petitioner intimating him about the dishonour of said cheque and calling upon him to make the payment to him within a period of 15 days from the date of receipt of the notice but despite that the petitioner 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 two years. He was also burdened with compensation of Rs.6,75,000/- alongwith interest @ 9% per annum from the date of issuance of cheque in question till the date of order, to be payable to the complainant. Aggrieved by the same, the petitioner filed an appeal and the learned Appellate Court dismissed the same vide order dated 17.03.2023. 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 complainant-respondent No.1 and respondent No.1 has 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-1. He submits that a separate application for compounding the offence is also filed alongwith the present revision. He has submitted that the parties have settled the dispute for Rs.6,50,000/- to be paid by the petitioner to the complainant and the said amount has been paid to the complainant-respondent 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 charge 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 (Cr1.) 851.**

Learned counsel for respondent No.1 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that respondent-complainant has received the settled amount of Rs.6,50,000/- and he has 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-complainant. 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.1,01,250/- (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 17.03.2023 passed by the learned Sessions Judge, Bathinda and order dated 07.07.2022 passed by the learned JMFC, Bathinda awarding conviction and sentence to the petitioner as stated above are set aside.

Petitioner is directed to file receipt of abovesaid amount of Rs.1,01,250/- 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.

19.04.2023

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE