

**254-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-20642-2019 (O&M)
Date of decision : 25.05.2023**

Mukesh

.....Petitioner

versus

State of Haryana and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Anmol Gupta, Advocate for
Mr. Abhinav Sood, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. L.K. Narang, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J.

This petition has been filed by the petitioner for quashing the impugned criminal complaint No.151 of 2015 dated 28.10.2015 titled as Naveen Kumar Vs. Mukesh under Section 138 of the Negotiable Instruments Act including judgment of conviction/order of sentence dated 15/16.02.2017 passed by learned Sub-Divisional Judicial Magistrate, Meham and also order dated 16.02.2018 passed by learned Additional Sessions Judge, Rohtak. It has been contended that both the Courts have fallen in error in convicting the petitioner and awarding the sentence of 01 year under Section 138 of Negotiable Instruments Act.

The brief facts of the case are that the complainant and petitioner were having friendly relations with each other and the petitioner took a loan of Rs.2,00,000/- for his domestic requirement and in order to

discharge his legal liability, petitioner issued a cheque bearing No.000005 dated 28.07.2015 for an amount of Rs.2,00,000/- in favour of the complainant with an assurance that the same will be honoured on its presentation. However, on presentation, the said cheque was returned back unpaid vide memo dated 01.08.2015, 07.08.2015 and 14.08.2015 with the remarks "Fund Insufficient". Thereafter, legal notice dated 14.09.2015 was issued to the petitioner but when he failed to make the payment of said cheque within a stipulated period, complaint was filed. On conclusion of trial, the petitioner was convicted by the trial Court vide order dated 16.02.2017 and sentenced him to undergo simple imprisonment for a period of one year and also to pay compensation to the tune of Rs.40,000/- to the complainant. Aggrieved by the same, the petitioner filed an appeal and the Appellate Court also upheld the conviction and sentence as awarded by learned trial Court and thus, dismissed the appeal vide its order dated 16.02.2018. Aggrieved by the same, the petitioner had filed the present petition.

Learned counsel for the petitioner has stated that with the intervention of the respectables, the parties have compromised the matter and the complainant has received the cheque amount and nothing is due against the petitioner. It is further submitted that in view of the settlement between the parties, prosecution of the petitioner would be nothing but an abuse of the process of the Court and thus, petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Negotiable Instruments Act.

Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has pleaded no

objection if the present petition is decided in view of the compromise.

Heard. In view of the fact that the matter has been compromised by the parties and nothing is due against the petitioner, offence is compounded and the petitioner is acquitted of the charges framed against him under Section 138 of the Negotiable Instruments Act subject to his depositing Rs.30,000/- (15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. Accordingly, criminal complaint No.151 of 2015 dated 28.10.2015 including judgment of conviction/order of sentence dated 15/16.02.2017 passed by learned Sub-Divisional Judicial Magistrate, Meham and also order dated 16.02.2018 passed by learned Additional Sessions Judge, Rohtak are *set aside*.

Petitioner is directed to file receipt of abovesaid amount of Rs.30,000/- in the office within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within 15 days from the date of pronouncement of this order, the office is directed to list the present case in the ordinary list as IOIN for further orders after a period of three weeks from today.

Petition is allowed in above terms. Pending applications, if any, shall also stand disposed of in view of the fact that the main case has been decided.

25.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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