

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-21454-2022 in/and
CRR-1252-2022 (O& M)
Date of decision: 12.01.2023**

Pardeep Sethi Petitioner

V/s

State of Haryana and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Harshit Arora, Advocate,
for Mr. Aalok Jagga, Advocate,
for the applicant-petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sukhdeep Singh, Advocate,
for complainant-respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 22.03.2021 passed by the learned Additional Sessions Judge, Faridabad, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 09.04.2018 passed by the learned Judicial Magistrate, 1st Class, Faridabad, has been dismissed.

2. Briefly, the facts of the case are that the petitioner-accused No.2 Pardeep Sethi alongwith accused No.3-Himanshu Adlakha on behalf of accused No.1-company approached the complainant for lease of plot No.18, Secor 24, Industrial Estate, Faridabad and the complainant had leased out the said property as per a lease agreement dated 30.04.2012 for a term of 36 months. After the expiry of the said lease period, accused No.2-Pardeep Sethi (petitioner) again approached the complainant for the renewing of the said lease and the same was again leased out by the complainant for another

11 months commencing from 01.05.2015. Thereafter, the accused No.2-petitioner started defaulting in making the payments of the rent. Thereafter, on receiving several reminders from the complainant, accused No.2-petitioner in order to discharge his partial liability issued four cheques bearing Nos.144558, 144559 dated 25.12.2015, 25.11.2015 for Rs.6,12,624/- each and cheques bearing Nos. 144560 and 144561 dated 19.11.2015 and 18.11.2015 for Rs.2,04,208/- each all drawn on Allahbad Bank, NIT, Faridabad in favour of the complainant. The complainant presented the said cheques for encashment through his banker. However, the same were returned back unpaid vide memos dated 20.01.2016 and 16.02.2016 respectively with the remarks "Exceeds Arrangement". The accused was duly served with a registered legal notice dated 18.02.2016 by the complainant through his counsel but the accused failed to make payment of the dishonoured cheques 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 No.3-Himanshu Adlakha was acquitted and accused No.2-Pardeep Sethi (petitioner) was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo simple imprisonment for a period of 06 months and to pay compensation of Rs.16,83,664/- (i.e. cheque amount + Rs.50,000/-) to the complainant within a period of 01 month from the date of passing of the judgment and in default of payment of compensation amount, the same was to be recoverable under the provisions of Section 421/431 Cr.P.C. However,

to be set off against this sentence and the amount, if any, paid by the convict to the complainant in the present case was to be set off from the amount of compensation.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Additional Sessions Judge, Faridabad, which came to be dismissed on 22.03.2021.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, a compromise/Memo of Understanding dated 30.04.2022 (Annexure A-1) has been executed between the parties stating that 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.

An application bearing CRM-21454-2022 under Section 147 Cr.P.C. has been filed alongwith the present petition seeking compounding of the offences in terms of the compromise/Memo of Understanding dated 30.04.2022 (Annexure A-1) executed between the parties.

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.

6. 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.

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

8. This Court in 'Ramesh Chander Vs. State of Haryana and

“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.”

9. 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.

10. 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.

11. Accordingly, the application (CRM-21454-2022) as well as the revision petition are allowed and the order dated 22.03.2021 passed by the learned Additional Sessions Judge, Faridabad and the judgment of conviction and order of sentence dated 09.04.2018 passed by the learned Judicial Magistrate, 1st Class, Faridabad 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

January 12, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No