

244

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1175-2019 (O&M)

Date of decision: 06.09.2023

Pawan Kumar and another

....Petitioners

versus

Parveen Kumar and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Rajinder Singla, Advocate for petitioners.Mr. Varlin Garg, Advocate
For respondent No.1.

Mr. Shubham Kaushik, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Instant Revision petition has been filed by petitioner against the Judgments dated 01.05.2015 passed by learned Sub Divisional Judicial Magistrate, Budhlada and appellate judgment dated 05.04.2019 passed by learned Additional Sessions Judge, Mansa whereby petitioner-accused was held guilty under Section 138 of Negotiable Instrument Act, 1881 (for short 'the Act') and sentenced to undergo rigorous imprisonment for two years besides payment of fine of Rs.5000/-.

2. Brief facts of the case in hand, as recorded by learned Sub Divisional Judicial Magistrate, Budhlada in the impugned judgment, are reproduced as under:

2.1. *"The present complaint under Section 138 of the Negotiable Instrument Act (hereinafter referred to as Act) has been preferred by complainant contending that accused being proprietor of accused no.2 borrowed amount of Rs.1,00,000/- from him on 08.11.2012 and in discharge of his said liability, he issued cheque bearing No. 243253 dated 15.02.2013 amounting to Rs.1,00,000/- drawn on Oriental Bank of Commerce Branch Budhlada in his favour. The said cheque was presented for realization but same was dishonoured vide memo dated 18.02.2013. The legal notice dated 06.03.2013 was also served upon accused to make the payment of cheque in question but accused failed to make the payment. Hence, the complaint."*

3. At the outset, learned counsel for the petitioners submits that matter stands settled as entire cheque amount has been paid to the complainant/respondent No.1 herein.

4. Learned counsel for respondent No.1 herein (complainant) does not controvert the aforesaid statement and also does not want to pursue the case any further and has no objection if the revision petition is accepted and petitioner is acquitted.

5. Respondent No.1 is present in person along with his counsel. On a Court query, he maintains that he does not wish to press charges against the petitioner.

6. Learned counsel for complainant/respondent No.1 admits the receipt of entire cheque amount. He also submits that respondent No.1 has no objection if appeal is accepted and petitioner is acquitted. He further urges that no useful purpose would be served by keeping the present proceedings pending.

7. The dispute herein is primarily civil in nature and parties have settled their differences and arrived at an amicable settlement, as aforesaid. Offence committed by the petitioner is against the complainant only and not a crime against society at large. The criminal charges were earlier pressed by the private respondent no.1 against the petitioner. It is not a case where State is the prosecutor. Respondent No.1 himself does not now want to press any charges against the petitioner and in facts, prays that instant petition be allowed or in other words his complaint against petitioner be dismissed. Parties are known to each other and wish to now live congenially in future rather than maintaining hostility which had earlier occurred due dishonor of the cheque, resulting in court proceedings *ibid*. In totality of the circumstance, I am thus of the view petitioner deserves to be acquittal.

8. Perusal of the order dated 28.05.2019 would reveal that sentence of the petitioner was suspended by a coordinate Bench of this Court.

9. As an upshot of the discussion, and also for the grounds stated in the petition and for mutual peace and future bon homie between the parties, and in the

larger interest of interest, revision petition is accepted. Accordingly, the impugned orders of conviction and sentence recorded by both Courts below are set aside. Petitioner is acquitted of the charges levelled against him. In case petitioner is in custody, he be released forthwith.

- 10. Petition is allowed accordingly.
- 11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

06.09.2023
Vandana

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