

CRR-5066-2015 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-5066-2015 (O& M)

Date of decision: 19.12.2023

Pal Singh

.... Petitioner

V/s

Jagjit Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Mr. R.S. Dadwal, Advocate,
for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 20.08.2015 passed by the Additional Sessions Judge, Ludhiana vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 22.01.2014 passed by the Judicial Magistrate Ist Class, Jagraon, has been dismissed.

2. Briefly, the facts of the case are that the accused-petitioner had obtained a loan from the complainant and his wife-Manjit Kaur and had executed the pronotes and receipts in favour of the complainant and his wife on different dates and had agreed to return the same with interest on demand. In order to discharge his legal liability, the accused-petitioner issued a cheque bearing No.107287 dated 11.11.2011 for a sum of Rs.4,50,000/- from his

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Saving bank account No.2097101007824 with the Canara Bank, Jagraon Branch in favour of the complainant and assured him (complainant) that the said cheque amount could be realized as and when the same would be presented in the bank. On presentation of the cheque in question, the same was bounced back with the remarks 'Funds Insufficient' vide memo dated 17.11.2011. Thereafter, a legal notice was served upon the accused through the complainant's counsel on 19.11.2011 calling upon the accused-petitioner to make the payment of the cheque within the stipulated period but he was failed to make the payment of the cheque in question.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face the trial. The evidence was led and ultimately, he 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 01 year and to pay fine of Rs.3,000/- and in default of payment to further undergo simple imprisonment for 01 month.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Ludhiana, which came to be dismissed on 20.08.2015.

5. Still aggrieved, the present revision petition has been preferred by the petitioner.

6. During the pendency of the present revision petition, the parties had appeared before the Mediation and Conciliation Centre of this Court to

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explore the possibilities of a compromise, pursuant to which, a compromise had been arrived at before the said Forum on 25.01.2022 and the accused-petitioner had already made the entire payment of Rs.4,50,000/- to the complainant-respondent. A settlement/agreement deed executed before the between the parties Mediation and Conciliation Centre of this Court is on record as Mark 'B'.

7. The learned counsel for the petitioner while referring to the settlement Mark 'B' submits that the matter has been settled with the respondent-complainant and the entire due amount of Rs.4,50,000/- has been paid by the accused-petitioner. Therefore, the matter has been settled amicably to the entire satisfaction of both the parties and now the parties shall not claim any further amount or costs in this matter. Both the parties have agreed to relinquish all their rights arising out of this matter.

8. The learned counsel for the complainant-respondent has accepted the factum of settlement and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

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

10. 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-

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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.”

11. 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.

12. 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.

13. Accordingly, the revision petition is allowed and the order dated 20.08.2015 passed by the Additional Sessions Judge, Ludhiana and judgment of conviction and order of sentence dated 22.01.2014 passed by the Judicial Magistrate Ist Class, Jagraon, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

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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

December 19, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No