

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-1842-2018 (O&M)
Reserved on : 16.01.2023
Pronounced on: 14.02.2023

Vikas Sharma

.....Petitioner

Vs.

Mohit Shingari

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sultan Singh Gill, Advocate for the petitioner.

 Mr. Hitesh, Advocate for
 Mr. B.S. Randhawa, Advocate for the respondent.

ANOOP CHITKARA J.

Criminal Complaint before the trial court	23347 of 2013 u/s 138 of Negotiable Instruments Act Date of decision: 01.08.2016
Criminal Appeal before the Sessions Court, Amritsar	No.7328/2016 CNR No.PBAS01-009953-2016 Date of decision: 10.05.2018

1. The petitioner, who stands convicted for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (NIA) has come up before this Court under Section 401, Code of Criminal Procedure, (CrPC) for setting aside the judgment and order of sentence dated 01.08.2016 passed by the learned JMIC, Amritsar and judgment dated 10.05.2018 passed by the learned Additional Sessions Judge, Amritsar, whereby, judgment of conviction stand upheld.
2. After the judgment of the Appellate Court, parties entered into compromise and the petitioner came before this Court under Section 401 CrPC. The petitioner faced criminal prosecution by the private respondent because of the dishonor of the cheque in question.
3. Vide order dated 30.08.2022, the parties were directed to appear before the concerned Court to record their respective statements qua the compromise.

4. On 23.09.2022, the aggrieved person-Mohit Shingari appeared before the learned JMJC, Amritsar and stated that he has compromised the matter with the accused-Vikas Sharma and he has received the entire money from the petitioner. As per the concerned court's report dated 23.09.2022, the parties have compromised the matter without any undue pressure, threat or coercion.

5. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honoured. The legislative intention is not to make people suffer incarceration only because their cheques bounced. These proceedings are to recover the cheque amount by showing teeth of a penal clause.

6. Given the judgment passed by Hon'ble Supreme Court of India in Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663, the law is well settled that when the entire money is paid, then the complainant cannot have any objection to such compromise, and 15% of the cheque amount is to be paid by the accused to the concerned State Legal Services Authority.

7. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the CrPC supported by Section 147 of the NIA read with 401 CrPC is invoked to disrupt the prosecution and quash the proceedings mentioned above.

8. In Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663, Hon'ble Supreme Court holds,

[17]. "...Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance."

9. The cheque amount is Rs.4,80,300/- and this compounding is subject to the petitioner depositing the 15% of the cheque amount i.e. Rs.72045/-, on or before March 31, 2023, with the concerned wing of High Court Legal Aid. Failing which this entire order, including compounding, shall automatically stand recalled under Section 362 and Section 482 CrPC, and this petition shall be posted for hearing on merits. However, in extraordinary circumstances, the petitioner may approach this Court for an extension of time to deposit the compounding fee. Petitioner to file the proof of deposit before the trial Court with in the aforesaid time.

10. Given above, the petition is allowed. The complaint, notice of accusation, and the

proceedings captioned above i.e. judgment and order of sentence dated 01.08.2016 passed by the learned JMIC, Amritsar and judgment dated 10.05.2018 passed by the learned Additional Sessions Judge, Amritsar, are hereby set aside. The bail bonds are accordingly discharged. All pending applications, if any, stand closed.

(ANOOP CHITKARA)
JUDGE

14.02.2023
anju rani

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