

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-22-2018(O&M)

Date of Decision:-13.10.2023

Bijender Singh Adhana.

.....Petitioner.

Versus

Hansveer Singh & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Krishan Sharma, Advocate for
Mr. Ranvijay Singh, Advocate for the Petitioner.

Mr. Neeraj Poswal, AAG Haryana.

Mr. Jai Bhagwan Sharma, Advocate for the respondent no.1.

JASJIT SINGH BEDI, J. (ORAL)

The present revision petition has been filed against the order dated 18.12.2017 passed by the Sessions Judge, Faridabad, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 3.8.2017/4.8.2017 passed by the learned Judicial Magistrate, 1st Class, Faridabad, has been dismissed.

2. The brief facts of the case are that the petitioner-Bijender Singh Adhana owed a debt of Rs.6,00,000/- to the complainant-Hansveer Singh and in discharge of the said liability the accused issued a cheque bearing No.656230 dated 25.07.2013 for Rs.6,00,000/- drawn on Syndicate Bank, Mini Secretariat, Faridabad with the assurance that same will be encashed on its presentation. However, on presentation the said cheque was dishonoured

vide memo dated 23.10.2013 on account of “funds insufficient”. Thereafter the complainant got served a legal notice dated 12.11.2013 calling upon the accused to make the payment of cheque in question, but he failed in doing so within the period as specified in the notice.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, wherein 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 imprisonment for a period of 01 year and to pay a compensation amount of Rs.9,00,000/- to the respondent no.1/complainant-Hansveer Singh Singh.

4. That aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the learned Sessions Judge, Faridabad, which came to be dismissed on 18.12.2017.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, the matter was referred to the Mediation and Conciliation Centre of this Court, where the parties have arrived at an amicable settlement and the petitioner had agreed to pay an amount of Rs.8,00,000/- to the complainant in terms of the Settlement Deed dated 31.01.2023 executed before the Mediation and Conciliation Centre of this Court. It would be relevant to mention here that a reading 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 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 '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.

9. The admitted position is that the matter stands settled and the settlement agreement between the parties dated 05.09.2019 is already on record. This Hon'ble 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-

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.”

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 revision petition is allowed and the order dated 18.12.2017 passed by the Sessions Judge, Faridabad, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 3.8.2017/4.8.2017 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.

(JASJIT SINGH BEDI)
JUDGE

October 13, 2023
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>