

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

225

**CRM-10499-2022
IN CRR-297-2018 (O&M)
Date of Decision: 13.03.2023**

SUNIL KUMAR

... Petitioner

Versus

KARAN SINGH AND ANR

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rohit Mittal, Advocate
for the applicant-petitioner.

Mr. Mukesh Yadav, Advocate
for respondent No.1.

HARNARESH SINGH GILL, J.(Oral)

CRM-10499-2022

This is an application for modification of the order dated 09.04.2019 passed by a Coordinate Bench of this Court and to afford a last opportunity to the applicant-petitioner to deposit the amount of Rs.75,000/-, in compliance of the said order.

On 09.04.2019, the following order was passed by a Coordinate Bench of this Court:-

'Learned counsel representing the petitioner contended that the petitioner has already paid a total sum of Rs.5,00,000/- on account of cheque amount and some amount as well. However, no amount has been deposited on account of cost of litigation i.e. 15% of the cheque amount with this Court by now.

Learned counsel representing respondent No.1 seeks time to have appropriate instructions in the matter.

Adjourned to 08.07.2019'.

Learned counsel for the applicant-petitioner submits that he could not comply with the said order due to financial constraints, which was followed by the sudden outbreak of Covid-19 pandemic. Still further, it is submitted that due to non-compliance of the order dated 09.04.2019, the revision petition was dismissed, vide order dated 06.12.2019 passed by this Court.

Learned counsel for the applicant-petitioner further submits that the applicant-petitioner is ready to pay the amount of Rs.75,000/- i.e. 15% of the cheque amount, in compliance of the earlier order passed by a Coordinate Bench of this Court.

With no objection from the learned counsel for respondent No.1, the present application is allowed. Applicant-petitioner is hereby granted one more opportunity to comply with the order 09.04.2019 passed by a Coordinate Bench of this Court.

A sum of Rs.75,000/- in cash has been handed over by the learned counsel for the applicant-petitioner to the learned counsel for respondent No.1 in Court today.

In view of the above, order dated 06.12.2019 passed by this Court, dismissing the revision petition for non-compliance of the order dated 09.04.2019, is hereby recalled and the revision petition is restored to its original number.

CRR-297-2018

In the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I.Act') by complainant-respondent

No.1, vide judgment of conviction and order of sentence dated 18/19.08.2015 passed by the learned Additional Chief Judicial Magistrate, Narnaul, the petitioner was convicted and sentenced for a period of one year along with fine of Rs.5,00,000/-.

The appeal against the aforesaid judgment and order, was dismissed by the learned Additional Sessions Judge, Narnaul, on 10.08.2017. Still aggrieved, the petitioner has filed the present revision petition.

During the pendency of the present revision petition, the petitioner had paid Rs.5,00,000/- to respondent No.1 on 16.11.2018. Thereafter, a Coordinate Bench of this Court on 09.04.2019 had directed the learned counsel for the petitioner to deposit an amount of Rs.75,000/- of the cheque amount towards the litigation charges.

Learned counsel for the applicant-petitioner contends that as the entire amount along with the costs of litigation stands paid to respondent No.1-complainant, the parties may be allowed to compound the offence and on the basis thereof, the petitioner may be acquitted by setting aside the judgments and orders passed by the Courts below.

Learned counsel for respondent No.1-complainant has no objection to the aforesaid prayer made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

In the present case, the cheque amount is Rs.4,00,000/-. In view of the law laid down in Damodar S. Prabhu Vs. Sayed Babalal H.,

2010 (2) RCR (Criminal) 851, compounding of the present offence may be allowed on the condition that the petitioner-accused pays 15% of the cheque amount by way of costs.

Since, the entire amount along with costs of litigation has been paid by the petitioner to complainant-respondent No.1, this Court is of the considered opinion that the ends of justice would be fully met in case compounding of the offence is allowed.

Accordingly, the present revision petition is allowed.

The impugned judgment of conviction and order of sentence dated 18/19.08.2015 passed by the learned Additional Chief, Judicial Magistrate, Narnaul and the judgment dated 10.08.2017 passed by the learned Additional Sessions Judge, Narnaul, are set aside; the complaint under Section 138 of the N.I. Act filed by respondent No.1 stands dismissed; the petitioner stands acquitted of the notice of accusation served upon him.

13.03.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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