

CRM-37934-2023 in/and
CRR-3541-2018 (O& M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-37934-2023 in/and
CRR-3541-2018 (O& M)
Date of decision: 13.09.2023**

Virender Kumar Bhatia

.... Petitioner

V/s

Manbir Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajeev Godara, Advocate,
with Ms. Divya Godara, Advocate,
for the applicant-petitioner.

Ms. Monika Jangra, Advocate,
for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 27.08.2018 passed by the learned Additional Sessions Judge, Bathinda vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 09.02.2018 passed by the learned Judicial Magistrate, 1st Class, Bathinda has been dismissed.

2. Briefly, the facts of the case are that the petitioner-accused had issued a cheque No.712704 dated 15.08.2015 for a sum of Rs. 8,90,000/- of his account No.0430000109002487 drawn on Punjab National Bank Barnala Road, Sirsa, Haryana in discharge of his liability and assured the complainant that the said cheque would be duly honoured when the same would be presented for encashment by the complainant. On 07.09.2015, when the complainant presented the said cheque for encashment to his banker HDFC Bank, Branch Civil Lines, Near Liberty Chowk, Bathinda but

CRM-37934-2023 in/and
CRR-3541-2018 (O& M)

::2::

08.09.2015 with remarks 'Funds Insufficient'. Thereafter, the accused was duly served through a legal notice dated 19.09.2015 through the counsel for the complainant but he failed to make the payment of the dishonoured cheque within the stipulated period of the receipt of the registered legal notice.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the accused were summoned to face the trial. The evidence was led and ultimately, accused-petitioner was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo rigorous imprisonment for a period of two years and to pay compensation of Rs.8.90,000/- (i.e. cheque amount) alongwith interest @9% per annum from the date of issuance of cheque in question till 09.02.2018

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Bathinda, which came to be dismissed on 27.08.2018.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, a compromise dated 27.08.2018 and affidavit dated 22.09.2018 have been executed between the parties stating that the matter has been settled amicably to the entire satisfaction of both the parties. Both the parties have agreed to relinquish all their rights arising out of this matter.

6. During the pendency of the proceedings in the present revision petition, an application bearing CRM-37934-2023 under Section 147 of the Negotiable Instruments Act has been filed seeking compounding of the

CRM-37934-2023 in/and
CRR-3541-2018 (O& M)

::3::

offences in terms of the compromise dated 27.08.2018 and affidavits dated 22.09.2018 and 19.02.2021 (Annexure A-1) executed between the parties.

7. It would be relevant to mention here that a perusal 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 mutual compromise has been effected between the parties.

8. 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.

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-

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."

CRM-37934-2023 in/and
CRR-3541-2018 (O& M)

::4::

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 application (CRM-37934-2023) as well as the revision petition are allowed and the judgemnt/order dated 27.08.2018 passed by the Additional Sessions Judge, Bathinda and the judgment of conviction and order of sentence dated 09.02.2018 passed by the Judicial Magistrate, 1st Class, Bathinda are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

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

September 13, 2023

sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No