

CRM-M-38745 of 2022

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-38745 of 2022
Reserved on: 27.01.2023
Date of Pronouncement: 02.02.2023

Harwinder Singh Atwal

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Harkirat Singh Bhogal, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Gagandeep Singh, Advocate,
for respondent No.2-complainant.

NAMIT KUMAR, J.

This petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 26.08.2016 passed by learned Judicial Magistrate First Class, SBS Nagar, whereby petitioner has been declared proclaimed offender in case No.NACT/1 of 2015 titled as 'Gurdip Singh v. Harwinder Singh Atwal' under Section 138 of the Negotiable Instruments Act, pending in the District Court SBS Nagar and to direct the trial Court to compound the offence on the basis of compromise dated 25.07.2022 (Annexure P-2) and all consequential proceedings arising therefrom.

Brief facts of the case are that respondent No.2-complainant got registered a complaint against the petitioner on the

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ground that petitioner borrowed an amount of Rs.4,45,000/- from him and in order to discharge his liability, he issued a cheque amounting to Rs.4,45,000/- to respondent No.2, which on presentation for encashment was returned back dishonoured with remarks "Funds Insufficient". Petitioner was granted bail by the trial Court. However, as he did not appear before the trial Court, petitioner was declared as proclaimed offender vide impugned order dated 26.08.2016.

Learned counsel for the petitioner contended that earlier compromise was effected between the parties, therefore, petitioner went abroad. However, lateron respondent No.2 backed out from the said compromise. As due to compromise effected between the parties, petitioner had gone abroad and could not appear before the trial Court, his bail bonds were cancelled and forfeited to the State and he was not served the summons, petitioner was declared proclaimed offender vide impugned order. Learned counsel further submitted that now with the intervention of the friends and common relatives the matter has been amicably settled between the parties vide compromise deed dated 25.07.2022 (Annexure P-2). Therefore, order dated 26.08.2016 may be quashed and trial Court be directed to compound the offence on the basis of compromise.

Learned counsel for respondent No.2 has admitted the factum of compromise between the parties and submitted that he has no objection if the impugned order is quashed and trial Court is directed to compound the offence.

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I have heard learned counsel for the parties and perused the record.

Undoubtedly, petitioner does not deserve any leniency but same would not serve purpose of either side. Paramount consideration of the Court is to secure the presence of the accused and to complete the proceedings at the earliest.

In view of the above, the order dated 26.08.2016 is hereby set aside and it is ordered that in case, the petitioner appears before the trial Court/Area Magistrate within six weeks from the date of passing of this order, he would be released on bail subject to furnishing his bail bonds/surety bonds to the satisfaction of the Court concerned and subject to payment of costs of Rs.20,000/- to be deposited with the Punjab and Haryana High Court Lawyers' Welfare Fund within a period of four weeks from the date of passing of this order. Petitioner will be at liberty to move appropriate application before the trial Court for compounding of offence. The trial Court after considering the validity and genuineness of the compromise shall compound the offence and consequential proceedings in accordance with law.

Disposed of in above terms.

02.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No