

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

CRR-2100-2019 (O&M)

Date of decision : 17.05.2023

Bhagwati Parshad

.....Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Navmohit Singh, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Mukul Ahuja, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J.

This revision has been filed by the petitioner impugning the order dated 10.07.2019 passed by learned Additional Sessions Judge, Hisar whereby the conviction and sentence awarded by learned JMIC, Hisar in a complaint under Section 138 of the Negotiable Instruments Act vide order dated 24/28.07.2015 has been upheld. It has been contended that both the Courts have fallen in error in convicting the petitioner and awarding the sentence of 01 year under Section 138 of Negotiable Instruments Act.

As per facts of the case, petitioner who was on visiting terms with the complainant borrowed a sum of Rs.3,00,000/- from him in the month of May, 2013 for purchase/construction of a house and promised to repay the same within six months. The said amount was given by the complainant to the petitioner on 11.05.2013 and in order to discharge his legal enforceable liability, petitioner issued a cheque bearing No.689912

dated 09.11.2013 drawn on ICICI Bank Ltd. Plot No.57-60, Kamla Palace, Red Square Market, Hisar in favour of the complainant, with the assurance that the same would be honoured on presentation to the Bank. When the complainant presented the said cheque with his banker, the same was dishonored with the remarks 'fund insufficient' vide memo dated 11.11.2013 and thereafter, the complainant sent legal notice dated 07.12.2013 to the petitioner requesting him to pay the amount which he failed to make. The complaint was filed and on the conclusion of trial, the petitioner was convicted by the trial Court vide order dated 24.07.2015 and sentenced him vide order dated 28.07.2015 to undergo simple imprisonment for a period of one year and also to pay compensation to the tune of Rs.3,00,000/- to the complainant. Aggrieved by the same, the petitioner filed an appeal and the Appellate Court also upheld the conviction and sentence as awarded by learned trial Court and thus, dismissed the appeal vide its order dated 10.07.2019. Aggrieved by the same, the petitioner had filed the present revision petition.

Learned counsel for the petitioner has stated that with the intervention of the respectables, the parties have compromised the matter and the agreed amount i.e. Rs.1,50,000/- as full and final settlement has been paid to the complainant and now nothing remains due against the petitioner. It is further submitted that once the parties have settled the dispute in view of the law settled, prosecution of the petitioner would be nothing but an abuse of the process of the Court and thus, the petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Negotiable Instruments Act. He has further stated that the petitioner is a very poor person.

Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has stated that the complainant has no objection if the present revision petition is allowed and the petitioner is acquitted of the charges framed against him.

In view of the compromise effected between the parties, the offence is compounded and the petitioner is acquitted of the charges framed against him under Section 138 of the Negotiable Instruments Act subject to his depositing Rs.10,000/- with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. Consequently, impugned order dated 10.07.2019 passed by learned Additional Sessions Judge, Hisar and also conviction and sentence order dated 24/28.07.2015 passed by learned Judicial Magistrate Ist Class, Hisar are *set aside*.

Petitioner is directed to file receipt of abovesaid amount of Rs.10,000/- in the office within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within 15 days from the date of pronouncement of this order, the office is directed to list the present case in the ordinary list as IOIN for further orders.

Revision petition is allowed in above terms. Pending applications, if any, shall also stand disposed of in view of the fact that the main case has been decided.

17.05.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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