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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1822-2023 (O&M)

Date of decision: August 11, 2023

Jatinder Singh

....Petitioner

versus

Gurmeet Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sunil Narang, Advocate for petitioner.

Mr. Deepak Gupta, Advocate for respondent No.1.

Mr. Dhruv Dayal, Additional AG Punjab.

ARUN MONGA, J. (ORAL)

Instant Revision petition has been filed by petitioner against the Judgments dated 16.11.2017 and 17.07.2023 passed by learned Courts below whereby petitioner-accused was held guilty under Section 138 of Negotiable Instrument Act, 1881 (for short 'the Act') and sentenced to undergo rigorous imprisonment for one year and fine of Rs.5,000/-, in default, to undergo further rigorous imprisonment for two months.

2. Brief facts of the case in hand, as recorded by learned Sessions Judge in the impugned judgment, are reproduced as under:

"2. Perusal of file reveals that complainant/respondent filed complaint under Section 138 of Negotiable Instrument Act against appellant/accused with the allegations that he is permanent resident of village Bakarpur, Tehsil & Distt Mohali and he is an agriculturist by profession. He knew the accused for the last so many years and he has friendly terms with the accused and due to said cordial relation, accused in the month of January, 2015, came at the residence of the complainant and requested to help him in monetary terms and he demanded Rs.15 lakhs from the complainant and accordingly, complainant due to cordial relation with the accused, gave Rs.15 lakhs to the accused and thereafter, accused promised to return the same as early as possible but accused failed to repay the amount. When complainant asked the accused to return the money as per his promise, he assured the complainant that he will definitely return the money. In view to clear his liability towards complainant accused issued one cheque number 015322 dated 20.10.2015 of Axis Bank for a sum of Rs. 15 lakhs and accordingly, complainant presented the said cheque in the Indus Ind Bank and the same was dishonoured with the comments "Drawers signature to operate account not received, payment stopped by drawer, drawers signature differs". Thereafter, complainant got served a legal notice and demanded the said amount but the accused failed to make the said payment and thereafter, complainant filed the present complaint after fulfilling the

necessary formalities under Negotiable Instruments Act and finally prayed that since the accused failed to pay the said amount, so he is liable to be convicted under Section 138 read with Section 142 of the Negotiable Instruments Act.”

3. Notice of motion.

4. On advance service of copy of petition, learned State counsel as well as learned counsel for respondent No.1 appear and accept notice.

5. At the outset, learned counsel for the petitioner submits that matter stands settled between the parties and now nothing is due from petitioner towards respondent No.1/ complainant.

6. Learned counsel for the petitioner further submits that parties have compromised the matter. Per compromise (Annexure A-2), respondent herein (complainant) does not want to pursue the case any further and has no objection if the revision petition is accepted and petitioner is acquitted.

7. Learned counsel for complainant/respondent No.1 admits the factum of compromise having been effected between the parties and nothing due from petitioner. He also submits that respondent No.1 has no objection if revision is accepted and petitioner is acquitted. He further urges that no useful purpose would be served by keeping the present proceedings pending.

8. The dispute herein is private in nature and parties have settled their differences and arrived at an amicable settlement, as aforesaid. Offence committed by the petitioner is civil in nature and not a crime against society at large. The criminal charges were earlier pressed by the private respondent No.1 against the petitioner. It is not a case where State is the prosecutor. Respondents No.1 himself does not now want to press any charges against the petitioner and in fact, prays that instant petition be allowed or in other words his complaint against petitioner be dismissed. Parties are known to each other and wish to now live in congenially in future rather than maintaining hostility occurred due dishonour of the cheque, resulting in court proceedings *ibid*. In totality of the circumstances, I am thus of the view petitioner deserves to be acquitted.

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9. As an upshot of the discussion, and also for the grounds stated in the petition and for mutual peace and future bonhomie between the parties, and in the larger interest of justice, revision petition is accepted. Accordingly, the impugned orders of conviction and sentence recorded by both Courts below are set aside. Petitioner is acquitted of the charges levelled against him. In case petitioner is in custody, he be released forthwith.

10. Petition is allowed accordingly.

11. Pending application(s), if any, shall also stand disposed of.

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Application herein is for suspension of sentence and grant of bail to the applicant/petitioner during pendency of present revision petition.

2. Since the main case is allowed, no further proceedings are warranted. Instant application is rendered infructuous.

(ARUN MONGA)
JUDGE

August 11, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No