

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

**CRR-2107-2019 O&M)
Reserved on: 23.01.2023
Date of decision : 30.01.2023**

Lalita

.....Petitioner

versus

State of Haryana and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Neeraj Yadav, Advocate
for respondent No.2.

RAJESH BHARDWAJ, J.

This revision has been filed by the petitioner impugning the order dated 05.08.2019 passed by learned Additional Sessions Judge, Rewari whereby the conviction and sentence awarded by learned trial Court vide order dated 17.09.2016 has been upheld. It has been contended that both the Courts have fallen in error in convicting the petitioner and awarding the sentence of 06 months under Section 138 of Negotiable Instruments Act.

As per the facts of the case, petitioner borrowed a sum of Rs.2,00,000/- from the complainant as loan. In order to discharge his legal liability, the accused/petitioner issued a cheque bearing No.761209 dated 02.01.2011 in favour of the respondent/complainant drawn on Punjab National Bank, New Delhi. On 02.02.2011, the complainant presented the said cheque with his banker and the same was dishonoured vide memo

dated 03.02.2011 with remark "Funds Insufficient". Thereafter, the respondent-complainant sent a legal notice to the accused/petitioner on 04.02.2011 requesting her to make payment but despite receipt of the said notice, no payment was made and thus, the complaint was filed. On the conclusion of the trial the petitioner was convicted by the trial Court vide order dated 17.09.2016 where the petitioner was sentenced to undergo rigorous imprisonment for a period of 06 months under Section 138 of Negotiable Instruments Act. Petitioner was further directed to pay compensation to respondent/complainant of Rs.1,00,000/- as per the provisions of Section 357(3) Cr.P.C. 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 05.08.2019. Aggrieved by the same, the petitioner had filed the present revision petition.

Learned counsel for the petitioner has stated that during the pendency of this revision petition, the matter was referred to Mediation Centre, Rewari where the parties settled the dispute and a settlement/agreement dated 02.01.2023 was signed by them in the presence of witnesses named therein. Learned counsel has further stated that as per compromise, the petitioner has paid an amount of Rs.1,35,000/- to the complainant on 02.01.2023 in cash and amount of Rs.1,00,000/- deposited by her in the Hon'ble High Court in compliance of order dated 29.08.2019 be released to the complainant. It is further submitted that once the parties have settled the dispute amicably then in view of the law settled, the 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 she be acquitted of the charge under Section 138 of Negotiable

Instruments Act in view of the law laid down by Hon'ble Supreme Court in **Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851**. He has further relied upon the judgment dated 18.09.2013 passed in CRR-3275-2012 titled as **Karam Chand Mittal Vs. Gian Chand and another**.

Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has prayed that the amount of Rs.1,00,000/- lying deposited in the High Court be ordered to be released to the complainant.

In view of the compromise effected between the parties and the law laid down by the Hon'ble Supreme Court in Damodar S. Prabhu's case (supra), offence is compounded and the petitioner is acquitted of the charges framed against her under Section 138 of Negotiable Instruments Act, 1881, subject to her depositing Rs.30,000/- (15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. An amount of Rs.1,00,000/- lying deposited with the Registry of this Court be released to the complainant forthwith.

Petitioner is directed to file receipt of abovesaid amount of Rs.30,000/- 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.

30.01.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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