

CRR-1936-2022 (O& M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR-1936-2022 (O& M)
Date of decision: 21.07.2023**

Udai Singh Petitioner

V/s

State of Punjab and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDIPresent: Mr. Tejinder Singh, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Vishva Bahl, Advocate,
for complainant-respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 21.05.2022 passed by the Additional Sessions Judge, Amritsar, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 01.10.2019 passed by the Judicial Magistrate, 1st Class, Amritsar, has been dismissed.

2. Briefly, the facts of the case are that one Ajay Pal Singh Randhawa was the owner of the petrol pump installed in Village Udho Nangal, Tehsil and District Amritsar and he intended to sell his petrol pump for which one Swapandeep Singh approached the husband of the complainant for the purchase of the said petrol pump. The complainant-Meera Mahajan and her husband came in his trap and met Ajay Pal Singh Randhawa and negotiations took place between them in the presence of

Swapandeep Singh. Initial payment of Rs.50,00,000/- was received by Ajay

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Pal Singh from the husband of the complainant in the presence of Swapandeep Singh. Thereafter, negotiations continued for some time but before coming to the final settlement Ajay Pal Singh made agreement for sale of his petrol pump with the accused and the husband of the complainant agreed to get back his advance money of Rs.50,00,000/-. The said Ajay Pal Singh returned Rs.20,00,000/- to the husband of the complainant and for the remaining amount the accused issued three cheques of Rs.10,00,000/- each bearing Nos.705400 dated 31.03.2014, 715542 dated 30.04.2014 and 715541 dated 15.04.2014 drawn on Indian Overseas Bank, Rani Ka Bagh Branch, Amritsar from his account in the name of the complainant. These cheques were duly signed by the accused and issued from his bank account No.147301000007956 to discharge his legal liability. The first cheque No.705400 dated 31.03.2014 for a sum of Rs.10,00,000/- was presented to the bank of the accused for payment on 02.04.2014 but the same was returned with memo 'Funds Insufficient'. Thereafter, the complainant deposited the abovesaid three cheques with her bank HDFC Bank and the same were presented to the bank of the accused on 17.05.2014 for payment, but the same were returned with remarks 'Insufficient Funds' vide three bank returning memos dated 17.05.2014. The accused was duly served with a registered legal notice dated 27.05.2012. On receipt of the aforesaid legal notice, the accused made payment of Rs.10,00,000/- against the cheque bearing No.705400 dated 31.03.2014 and assured that he will make arrangements of funds in his account against the remaining two cheques. On his assurance, the complainant deposited the remaining two cheques I.e cheques bearing No.715541 and 715542 for Rs.10,00,000/- each in her bank

accused i.e. Indian Overseas Bank on 24.06.2014 and again those cheques were returned unpaid with bank returning memo dated 24.06.2014 with reason 'Payment stopped by drawer'. When the complainant apprised the accused regarding dishonour of the said two cheques, the accused did not pay any heed to the request of the complainant. The accused was again served through a legal notice dated 01.07.2014 through registered A.D. post, but despite the service of the legal notice, the accused failed to make the payment of the dishonoured cheques 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 was summoned to face trial. The evidence was led and ultimately, the accused/petitioner Udai Singh 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 under Section 357(3) Cr.P.C. the accused was held liable to pay compensation of Rs.20,00,000/- to the complainant and in case of failure to make the said payment, the accused-petitioner had to further undergo rigorous imprisonment for a period of 02 months only. However, the period of detention, if any, undergone by the convict-petitioner in the present case during the investigation/trial, was to be set off against the substantive sentence of imprisonment awarded to the convict-petitioner.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Amritsar, which came to be dismissed on 21.05.2022.

5. Still aggrieved, the present revision petition has been preferred by the petitioner. During the pendency of the present criminal revision petition, vide order dated July 12, 2023 passed by this Court, the matter was referred to the Mediation and Conciliation Centre of this Court and the petitioner was ordered to be released on interim bail till 22.07.2023.

6. In pursuance to the aforesaid order, a settlement has been arrived at between the parties before the Mediation and Conciliation Centre of this Court. A report dated 20.07.2023 of the aforesaid Forum with regard to the compromise arrived at between the parties has already been placed on record, as per which, 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.

7. Today, the matter has come up for hearing before this Court. Both the parties pray for compounding of the offences in terms of the compromise/settlement having been arrived at between them before the Mediation and Conciliation Centre of this Court on 20.07.2023.

8. 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.

6. 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.

7. I have heard the learned counsel for both the parties.

8. 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."

9. 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.

10. 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.

11. Accordingly, the present revision petition is allowed and the order dated 21.05.2022 passed by the Additional Sessions Judge, Amritsar

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passed by the Judicial Magistrate 1st Class, Amritsar 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

July 21, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No