

**(111+248) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-9021-2023 in
CRR-1997-2022
Date of Decision: 27.02.2023**

JOGINDER SINGH

... Petitioner

Versus

STATE OF PUNJAB & ANOTHER

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, Asstt. A.G., Punjab.

Mr. R.S. Sekhon, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J (Oral)

CRM-9021-2023

This is an application filed under Section 147 of the NI Act for compounding of the offence in view of the fact that the matter has been compromised between the parties.

Allowed as prayed for subject to all just exceptions.

CRR-1997-2022

The present revision petition has been filed against the judgment dated 25.08.2022 passed by the Additional Sessions Judge, Fast Track Court, Ferozepur, vide which the appeal preferred by the petitioner against the

judgment of conviction and order of sentence dated 03.10.2019 passed by the learned Judicial Magistrate, 1st Class, Ferozepur, has been dismissed.

2. The brief facts of the case are that the complainant was running a business of a commission agency and the accused/petitioner being his customer used to sell his crops through the complainant-respondent No.2 firm and the accused used to take loan on different occasions on interest. After settling the accounts an amount of Rs.3,03,612/- was due towards the accused along with interest. Subsequently, the accused stopped dealings with the complainant-respondent No.2-firm. Thereafter, in order to discharge the above said liability, the accused issued a post-dated cheque bearing No.000001 dated 01.05.2017 for an amount of Rs.3,70,000/- drawn on HDFC Bank, Mallanwala, in favour of the complainant-respondent No.2 with the assurance that the cheque would be honoured as and when presented for encashment. Subsequently, the complainant-respondent No.2 presented the said cheque for encashment through his banker but the same was dishonoured by the banker of the accused vide memo dated 05.06.2017 with remarks "Insufficient Funds". Resultantly, a legal notice dated 16.06.2017 was issued to the accused. However, since the accused failed to pay the cheque amount to the complainant-respondent No.2 within the statutory period, the complainant was constrained to file a complaint under Sections 138/142 of the Negotiable Instruments Act, 1881 in which the petitioner-accused was summoned to face the trial.

3. The evidence was led and ultimately, the accused was held guilty and accordingly, convicted for the offence punishable under Sections 138/142 of the Negotiable Instruments Act, 1881 and sentenced to undergo

rigorous imprisonment for a period of 02 years and the accused/petitioner was also ordered to pay an amount of Rs.3,70,000/- as compensation to the complainant. In default of payment of compensation, the accused/petitioner was to undergo additional simple imprisonment of 06 months.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused/petitioner preferred an appeal before the Additional Sessions Judge, Fast Track Court, Ferozepur, which came to be dismissed on 25.08.2022.

5. Still aggrieved, the present revision petition has been preferred by the accused/petitioner. During the pendency of the present criminal revision petition, a compromise has been arrived at between the parties on 03.11.2022 (Annexure A-1). It would be relevant to mention here that a reading 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 No.2 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 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. The admitted position is that the matter stands settled and the compromise/settlement between the parties dated 03.11.2022 (Annexure A-1) is already on record.

11. 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.

12. Accordingly, the revision petition is allowed and the judgment dated 25.08.2022 passed by the Additional Sessions Judge, Fast Track Court, Ferozepur and the judgment of conviction and order of sentence dated 03.10.2019 passed by the learned Judicial Magistrate, 1st Class, Ferozepur Sahib, are hereby set aside. The petitioner is acquitted of the charges under Sections 138/142 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

27.02.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No