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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1885-2023 (O&M)

Date of decision: 24.08.2023

Pardeep Kumar

....Petitioner

versus

Jugal Kishore

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Hitesh Chopra, Advocate for petitioner.Mr.Arshdeep Singh Viridi, Advocate,
for the respondent.

ARUN MONGA, J. (ORAL)**Main case**

Instant Revision petition has been filed by accused against the Judgments and order dated 05.08.2023 and 04.12.2019 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 besides payment of fine of Rs.5,000/-.

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

"2. As per allegations in brief in the complaint, the present complaint has been filed by the complainant that the wife of accused namely Seema had executed an agreement to sell dated 2.9.2015 of 3 marlas house in favour of complainant for a consideration of Rs. 6,00,000/- (Rs. Six Lacs only). As per this agreement complainant paid a sum of Rs. 3,00,000/- to wife of accused as earnest money and remaining amount of Rs. 3,00,000/- was agreed to be paid by complainant to said Seema wife of accused at the time of execution of sale deed on or before 02.09.2016. As per this agreement it was provided that in case vendor resiles from execution of sale deed, he will pay double the amount of earnest money i.e. Rs. 6,00,000/-. Said Seema did not execute sale deed in favour of complainant as agreed and resiled from the agreement to sell dated 02.09.2015 and hence complainant contacted said Seema and accused after 02.09.2016 and accused and his wife showed inability to execute sale deed. Then complainant requested wife of accused to pay the double of earnest money i.e. a sum of Rs. 6 lacs as per the terms and conditions of agreement of sell dated 02.09.2015. On this accused on behalf of his wife under his signature issued a cheque No.518958 dated

17.09.2016 for Rs. 6 Lacs of Allahabad Bank Branch Amritsar to complainant in the discharge of his liability.

It is further submitted that complainant deposited the above mentioned cheque in his account in State Bank of Patiala, Branch Dinanagar for collection from Allahabad Bank, but the same has been dishonoured due to insufficient funds in the account of accused on dated 19.09.2016 as per Memo issued by Allahabad Bank and accordingly complainant was informed by its Banker on dated 19.09.2016 itself regarding dishonour of cheque. It is further submitted that complainant also served a legal notice dated 29.09.2016 through his counsel to the accused through registered post asking the accused to make payment of Rs. 6,00,000/- of dishonoured cheque, but the accused has failed to make payment of Rs. 6,00,000/- to the complainant within stipulated time and hence accused has committed an offence punishable under Section 138 of Negotiable Instruments Act. Hence, this complaint.”

3. Notice of motion.

4. On advance service of copy of petition, learned counsel for complainant/respondent appears and accepts notice.

5. At the outset, learned counsel for the petitioner submits that matter stands settled as entire cheque amount has been paid to the complainant/respondent herein.

6. Learned counsel for the petitioner further submits that parties have compromised the matter. *Per* compromise dated 10.08.2023 (Annexure P-1), it was settled that petitioner shall pay the amount of Rs. 3,50,000/- against the cheques no. 518958 dated 17-09-2016 which is full and final settlement. It has been also settled that the petitioner shall pay the amount of Rs. 3,50,000/- in three installments from date of compromise and the first installment of Rs. 80,000/- has been received by the complainant/respondent from the wife of the petitioner namely Seema and the remaining Rs 2.70.000 will be paid by the petitioner to the complainant/respondent in two installments of Rs. 1,35,000/ each. It has been settled between the parties that second installment will be paid to the complainant/respondent on or before 12.09.2023 and the third and last installment by the petitioner will be paid to the respondent on or before 12.10.2023 and after full and final payment of the total amount Rs. 3,50,000/- the complainant/respondent will have no objection if his complaint is quashed and petitioner-Pardeep Kumar is acquitted.

7. On a Court query, learned counsel for complainant/respondent maintains that respondent does not wish to press charges against the petitioner subject to payment of remaining installments as aforesaid.

8. Learned counsel for complainant/respondent admits the factum of compromise having been effected between the parties. He also submits that respondent has no objection if appeal is accepted and petitioner is acquitted. However, petitioner may remain bound by the terms of compromise.

9. 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 respondent against the petitioner. It is not a case where State is the prosecutor. Respondent 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 subject to remaining payment, as promised. Parties are known to each other and wish to now live in congenially in future rather than maintaining hostility occurred due dishonor of the cheque, resulting in court proceedings *ibid*. In totality of the circumstance, I am thus of the view petitioner deserves to be acquitted.

10. 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.

11. The petitioner shall remain bound by the terms of compromise, failing which complainant/respondent shall have liberty to approach this Court.

12. Petition is allowed accordingly.

CRM-35332-2023

Application herein is for compounding of offence in complaint under Section 138 of the Negotiable Instruments Act, 1881.

Since the main case is allowed vide order of even date, no further proceedings are warranted. Instant application is rendered infructuous.

CRM-35330-2023

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

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

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

(ARUN MONGA)
JUDGE

24.08.2023
‘D’Vir/

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