

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

CRR-2003-2022 (O&M)

Date of Decision: 08.02.2023

Bansh Bahadur

..... Petitioner

Versus

Surinder and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sandeep Goyat, Advocate, for the petitioner.

Mr. Ajit Sihag, Advocate, for respondent No.1.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J.

This revision has been filed by the petitioner impugning the order dated 07.09.2022 passed by learned Additional Sessions Judge, Hisar, whereby, the conviction and sentence awarded to the petitioner under Section 138 of the Negotiable Instruments Act by the Court of learned JMIC, Hisar, vide order dated 28/30.05.2018 has been upheld.

As per facts of the case, the accused was having friendly relations with the complainant-respondent and he was in dire need of money for his personal work. On his request, the complainant advanced a loan of Rs.1,20,000/- to the petitioner on 20.04.2016. The petitioner-accused promised that he would repay the amount after six months till 19.10.2016. In order to discharge his liability, the accused-petitioner issued a cheque bearing No.187194 dated 28.10.2016 amounting to Rs.1,20,000/- drawn on State Bank of India, HAU Branch, Hisar in favour of the complainant. On presentation, the cheque was returned dishonoured with remarks "insufficient funds". Thereafter, the respondent-complainant sent a legal notice to the petitioner on 03.11.2016 requesting him to make payment but

despite that the petitioner failed to make payment and thus, complaint was filed. On the conclusion of trial, the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act, to undergo simple imprisonment for six months. He was also burdened with compensation of Rs.1,20,000/- to be payable to the complainant. Aggrieved by the same, the petitioner filed an appeal and the learned Appellate Court dismissed the same vide order dated 07.09.2022. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

Learned counsel for the petitioner has submitted that during pendency of this revision petition, the matter was referred to the Mediation and Conciliation Centre of this Court, where the parties have settled their dispute and the settlement/agreement dated 18.01.2023 was signed by them in the presence of the witnesses named therein. He has submitted that as per the compromise the matter was settled at total amount of Rs.1,14,000/- and out of same, an amount of Rs.24,000/- was paid in cash and for the remaining amount of Rs.90,000/- a cheque bearing No.044003 dated 18.01.2023 was given to the complainant, thus, agreed amount of Rs.1,14,000/- has been paid by the petitioner to the respondent-complainant and now nothing is due against him. He has 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 he 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.

Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that respondent-complainant has received the agreed amount and he has no objection, if the present petition is allowed.

As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioner, who has already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent-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 him under Section 138 of Negotiable Instruments Act, 1881, subject to his depositing Rs.18,000/- (being 15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today.

Petitioner is directed to file receipt of abovesaid amount of Rs.18,000/- in the office/Registry of this Court within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within two weeks from today, 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.

08.02.2023
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE