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(114+239) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2010-2022

Date of Decision: 10.04.2023

JASPAL SINGH

... Petitioner

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. J.S. Dadwal, Advocate
for the petitioner.

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

Mr. Saurabh Bhardwaj, Advocate
for respondent No.2.

JASJIT SINGH BEDI, J (Oral)

The present revision petition has been filed against the judgment dated 02.09.2022 passed by the Additional Sessions Judge, Shaheed Bhagat Singh Nagar, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 19.08.2017 passed by the learned Judicial Magistrate, 1st Class, Shaheed Bhagat Singh Nagar, has been dismissed.

2. The brief facts of the case are that respondent No.2-complainant is a Bank under the RBI. Respondent No.2-complainant is duly incorporated under the Companies Act and was having its office at Rahon, Punjab. Respondent No.2-complainant had authorised Sh. Harminder Pal Singh as the representative of respondent No.2-complainant-Bank and Sh. Harminder Pal

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Singh was well-conversant with the facts of the case. Respondent No.2-complainant company was engaged in the business of providing finance facility to people at large. In the course of business respondent No.2-complainant Bank granted a loan to the accused for his account No.50200002768391 which was to be paid back by the accused in instalments. The accused in order to discharge his legal liability towards respondent No.2-complainant Bank issued a cheque bearing No.000002 drawn on HDFC Bank, Rahon dated 20.02.2015. The said cheque of respondent No.2-complainant was presented for encashment. However, the same was returned unpaid by the accused's bank due to insufficient funds in the bank account of the accused vide return memo dated 20.02.2015. Resultantly, a legal notice dated 13.03.2015 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 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 Section 138 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.30,000/- as compensation to respondent No.2-complainant.

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4. Aggrieved against the said judgment of conviction and order of sentence, the accused/petitioner preferred an appeal before the Additional Sessions Judge, Shaheed Bhagat Singh Nagar, which came to be dismissed on 02.09.2022.

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 16.11.2022 (Annexure P-2). 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-

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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 16.11.2022 (Annexure P-2) 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 02.09.2022 passed by the Additional Sessions Judge, Shaheed Bhagat Singh Nagar and the judgment of conviction and order of sentence dated

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19.08.2017 passed by the learned Judicial Magistrate, 1st Class, Shaheed Bhagat Singh Nagar, are hereby set aside. The petitioner is acquitted of the charges under Sections 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

10.04.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No