

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

286(1)

CRM-M-45057-2023

Date of decision: 03.10.2023

Akhtiar Singh

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Mandeep Singla, Advocate, for the petitioner.
Mr. P.S. Pandher, AAG, Punjab.
Mr. Bhisham Singh Kinger, Advocate, for respondent No.2.

DEEPAK GUPTA, J. (Oral)

On 13.09.2023, the following order was passed by this Court:-

“Petitioner was convicted under Section 138 of NI Act in NACT No.223 of 2013 by learned Chief Judicial Magistrate, Moga vide judgment dated 10.09.2015 (Annexure P.2). His appeal against conviction was dismissed by learned Additional Sessions Judge, Moga vide judgment dated 03.04.2017 (Annexure P.3).

It is contended by learned counsel that after the conviction was upheld by the Appellate Court, complainant of the case, namely, Dalgir Singh expired on 01.11.2017. Later on, compromise has been effected with all the legal heirs of deceased- complainant Dalgir Singh. Copy of that compromise dated 22.11.2019 is Annexure P.6.

Prayer is made for setting aside the judgment of conviction and order of sentence as passed by the Courts below and to permit compounding of the matter in view of the compromise.

Notice of motion.

Mr. R.S. Khaira, DAG, Punjab, accepts notice on behalf of the respondent- State. Mr. Bhisham Kinger, Advocate accepts notice on behalf of respondent No.2. Vakalatnama has been filed on behalf of respondent No.2 – Dalgir Singh, through his legal heir namely Ranjit Singh, who is stated to be the Special Power of Attorney Holder of other legal heirs of deceased Dalgir Singh.

Let the petitioner and all the legal heirs of deceased – complainant –Dalgir Singh appear before the Court of learned Chief Judicial Magistrate, Moga on 27.09.2023 so as to make the statement regarding the genuineness of the compromise.

Adjourned to 03.10.2023.

Report be submitted by learned trial Court on or before the date fixed.”

Today report dated 28.09.2023 from the learned Chief Judicial Magistrate, Moga, has been received, as per which statement of the legal heirs of the complainant on behalf of the complainant Dalgir Singh and the petitioner have been recorded. The legal heirs of the complainant have compromised the matter. The said statements have also been annexed along with the report.

Considering the fact that the conviction is for the commission of offence under Section 138 of the Negotiable Instruments Act and the said offence is a compoundable offence at any stage, permission to compound the offence by this Court is hereby granted despite conviction. Therefore, the present petition is accepted and the impugned order of conviction and sentence dated 10.09.2015 (Annexure P-2) passed by the learned Chief Judicial Magistrate, Moga and judgment dated 03.04.2017 (Annexure P-3) passed by the Additional Sessions Judge, Moga, are hereby set aside. The petitioner shall be deemed to have been acquitted within the meaning of Section 320 (8) of the Cr.P.C.

(DEEPAK GUPTA)
JUDGE

October 03, 2023
vcgarg

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No