

2023:PHHC:063767

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRR-2-2022 (O&M)

Date of Decision: May 03, 2023

Reetu Sandhu

.... Petitioner

Versus

Arun Arora and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Achin Gupta, Advocate,
for the petitioner.

Mr. Arun Arora, respondent no.1/complainant in
person.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Vivek Puri, J.

1. The petitioner has assailed the judgments of the Courts below vide which she has been convicted and sentenced for committing the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act').

2. The respondent no.1 has instituted a complaint under Section 138 of the Act against the petitioner alleging that the petitioner had borrowed a sum of Rs. 2,00,000/- from the complainant and in discharge of her legal liability, she had issued a cheque bearing No. 134102, dated 19.07.2016 in the sum of Rs. 2,00,000/- drawn on Axis

Bank Limited in favour of respondent no.1/complainant. The cheque on presentation has been dishonoured with the remarks "Funds Insufficient". The petitioner has failed to pay the amount despite issuance of legal notice.

3. Vide judgment dated 11.03.2019 passed by the Court of learned Judicial Magistrate First Class, Bathinda, the petitioner has been convicted under Section 138 of the Act and sentenced to undergo rigorous imprisonment for a period of one year and six months and to pay compensation to the tune of Rs. 2,00,000/- along with interest @ 9% per annum from the date of issuance of cheque in question till the date of judgment. The petitioner had preferred an appeal against the judgment of conviction and order of sentence and the same has been dismissed as the appeal was instituted after the expiry of prescribed period of limitation. An application for condonation of delay was also moved. However, the application for condonation of delay was dismissed by the Court of learned Additional Sessions Judge, Bathinda, in terms of the order dated 27.01.2021.

4. Aggrieved by the aforesaid judgment/orders, the present revision petition has been preferred by the petitioner.

5. During the course of proceedings in this Court, an amicable settlement has been effected between the parties. Accordingly, in terms of the order dated 23.02.2022, the

parties were directed to appear before the trial Court/Illaq Magistrate for getting the statements recorded qua the factum of compromise.

6. In pursuance of the order dated 23.02.2022, the report from the learned Judicial Magistrate First Class, Bathinda, has been received and the relevant portion thereof is as following:-

“Today, i.e. on 08.03.2022 an application for recording the compromise statements of the parties have been moved. Both the parties i.e. complainant Arun Arora with his counsel Sh. Manjit Kumar Dhamija, Advocate and accused Reetu Sandhu with her counsel Sh. Pardeep Kumar Sharma, Advocate appeared. Statements of complainant Arun Arora as well as accused Reetu Sandhu have been recorded. The parties have been identified by their counsels. This Court is of the view that the statements suffered by the complainant as well as the accused are genuine and not the result of any pressure or coercion and the statements have been made by them voluntarily out of their own free will. So necessary report with regard to the genuineness of the statement of parties is hereby submitted. The statements of parties, in original, are enclosed herewith.”

7. Learned counsel for the petitioner contends that the entire outstanding amount has been paid to the respondent no.1 and nothing is due payable to him.

8. The respondent no.1/complainant, who is present in person, has not disputed the aforesaid factual assertion and has further submitted that he has no objection, if the revision petition is accepted and the sentence imposed upon the petitioner with regard to the imprisonment and compensation are set aside. The respondent no.1/complainant has further submits that he has no objection if permission is granted to compound the offence and the judgments of the learned Courts below are set aside.

9. In ***Damodar S. Prabhu vs. Sayed Babalal H., 2010(2) R.C.R. (Criminal) 851***, Hon'ble Supreme Court has observed that the matter with regard to the imposition of costs by the competent Court shall be a matter of discretion and it can reduce the costs with regard to the specific facts and circumstances of the case.

10. As per Section 147 of the Act, the offences are compoundable.

11. Learned counsel for the petitioner submits that the petitioner is working as a private nurse and drawing meager salary. Moreover, she has a three years old child to look after. Consequently, a submission has been made to reduce the amount of costs.

12. Keeping in view the fact that the petitioner is working as a nurse in a private hospital, drawing a meager salary and having a 3 years old child to look after,

reasonable and sufficient grounds are made out for the indulgence to reduce the amount of costs of litigation that may be imposed upon him.

13. In these set of circumstances, the offence is allowed to be compounded and the impugned judgment dated 11.03.2019 passed by the Court of learned Judicial Magistrate First Class, Bathinda and order dated 27.01.2021 passed by the Court of learned Additional Sessions Judge, Bathinda, are set aside subject to the condition that the petitioner deposits a sum of Rs. 15,000/- as costs with the Punjab State Legal Services Authority and submits the receipt in the Registry of this Court, within a period of 4 weeks.

14. The present revision is disposed of in view of the aforesaid terms and conditions. As the present revision petition has been disposed of, all the pending Misc. applications, if any, stands disposed of.

May 03, 2023
vk d

(Vivek Puri)
Judge

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