

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

108+253

**CRM-34315-2023 in/and
CRR-2548-2022 (O&M)
Date of decision: 23.08.2023**

MAHENDRA KESRI AND OTHERS

.... Petitioners

Versus

NITIN SHARMA

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Chandan Singh Rana and Ms. Sonia Parmar, Advocates
for the petitioners.

Mr. Abhishek Jindal and Mr. Mithun, Advocates
for the respondent.

MANISHA BATRA, J. (oral)

The instant revision petition has been filed by the petitioners against the order dated 19.10.2022 passed by the learned Additional Sessions Judge, Chandigarh whereby, the criminal appeal No.403 of 12.08.2016 titled as **Mahendra Kesri and others vs. Nitin Sharma** as preferred by the petitioner against the judgment of conviction and order of sentence dated 14.07.2016 passed by learned Judicial Magistrate, First Class, Chandigarh, had been dismissed.

2. The brief facts of the case as alleged in the complaint are that petitioner No.1 herein and the respondent-complainant had friendly relations and they also became business associates. Petitioner No.1 had issued a cheque bearing No.154790 dated 11.08.2012 for a sum of Rs.6,40,000/- drawn on HDFC Bank to the respondent-Complainant to discharge his legal liability. The said cheque was dishonored with remarks "Payment stopped by drawer". Petitioner No.1 failed to make the payment of the cheque amount despite

repeated requests and issuance of notice, leading to initiation of proceedings under Section 138 of the Negotiable Instruments Act, 1881 (For short-**NI Act**).

3. In the complaint filed by the complainant against the petitioners, they were summoned to face trial and vide judgment and order on quantum of sentence dated 14.07.2016, they were held guilty for commission of offence punishable under Section 138 of the NI Act and petitioner No.1 was sentenced to undergo rigorous imprisonment for one year and to pay compensation equal to the amount of cheque in question within a period of two months, jointly and severally with petitioner No.2

4. Aggrieved by the said judgment of conviction and order of sentence dated 14.07.2016, the petitioners preferred an appeal before learned Additional Sessions Judge, Chandigarh, which was also dismissed on 19.10.2022.

5. Still aggrieved, the present revision petition has been preferred by the petitioners and during the pendency of the present petition, an application bearing No. CRM-34315-2023 under Section 482 of Cr.P.C. has been filed by the petitioners for giving permission to compound the offence under Section 138 of the NI Act on the ground that parties have amicably settled the dispute themselves and the entire cheque amount has been received by the respondent-complainant.

6. Learned counsel for the respondent/complainant has stated that the matter has been compromised between the parties and he has no objection if the prayer made in the application for compounding the offence under Section 138 of NI Act is allowed and the petitioner No.1 is acquitted.

7. It will be relevant to mention here that as per Section 147 of the NI Act, offence under Section 138 of NI Act, is compoundable.

8. I have heard learned counsel for the parties.
9. It is well settled that once a settlement is being effected, then in terms of Section 147 of the NI Act, the accused ought to be acquitted as the offence stands compounded. In this regard, reference can be made to *Ramesh Chander vs. State of Haryana and another, 2007 (1) RCR (Criminal) 245*, wherein, a Bench of this Court had observed that the compounding of the offence under Section 138 of the NI Act can be done during the trial of the case or before the Court of Sessions as well as by the High Court while exercising the powers of revision and the compounding of an offence shall have the effect of acquittal of accused with whom the offence has been compounded. Since, the parties have voluntarily settled their dispute between themselves, therefore, in my opinion, it is a fit case for allowing them to compound the offence.
10. Accordingly, the revision petition is allowed. The order dated 19.10.2022 passed by the learned Additional Sessions Judge, Chandigarh and judgment of conviction and order of sentence dated 14.07.2016 passed by learned Judicial Magistrate, First Class, Chandigarh are hereby set aside. The petitioners are acquitted of the charge under Section 138 of the NI Act and petitioner No.1 is ordered to be released forthwith from the custody, if he is in custody and is not required in any other case.

Pending application, if any also stand disposed of.

(MANISHA BATRA)
JUDGE

23.08.2023
Jyoti-IV

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