

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

CRR-2818-2022 (O&M)
Date of Decision: 08.02.2023

CHANCHAL BASSI

...Petitioner

Versus

THE STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Ms. Srishtti S.Sharma, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, A.A.G., Punjab.

Mr. Gaurav Goel, Advocate
and Mr. Navjit Singh, Advocate
for respondent No.2-Bank.

HARSH BUNGER, J. (ORAL)

Petitioner-Chanchal Bassi, has filed the present revision petition, challenging the judgment of conviction and sentence dated 23.02.2017 passed by the learned Judicial Magistrate Ist Class, Jalandhar, upon a complaint moved by State Bank of Patiala-respondent No.2 under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I. Act, 1881'). Said judgment of conviction and sentence dated 23.02.2017 passed by learned Judicial Magistrate Ist Class, Jalandhar, has been further upheld by the learned Additional Sessions Judge, Jalandhar, vide judgment dated 23.11.2022.

Vide judgment of conviction and sentence dated 23.02.2017 passed by the learned Judicial Magistrate Ist Class, Jalandhar, the petitioner was directed to undergo rigorous imprisonment for a period of two years for offence under Section 138 of the N.I. Act, 1881 and compensation was also

granted to the complainant to the tune of cheque amount along with interest @ 9% p.a from the date of issuance of cheque till the passing of said judgment.

The aforesaid judgment of conviction and sentence dated 23.02.2017 passed by the learned Judicial Magistrate Ist Class, Jalandhar, has been upheld by the learned Additional Sessions Judge, Jalandhar, vide judgment dated 23.11.2022.

Learned counsel for the petitioner submits that during the pendency of this case, one time settlement was effected into between the petitioner and respondent No.2-Bank and the entire loan amount, in question has been re-paid to respondent No.2-Bank, in respect of which, the Bank has issued '*No Due Certificate*' (Annexure P-5) to the petitioner. The petitioner had also filed an application bearing **CRM-49878-2022** in **CRR-2818-2022**, seeking compounding of the offence under Section 138 of the N.I. Act, 1881. Accordingly, learned counsel for the petitioner has prayed that the offence under Section 138 of the N.I. Act, 1881, may be compounded and conviction of the petitioner may be set aside.

The factum of one time settlement between the petitioner and respondent No.2-Bank has not been disputed by learned counsel appearing for respondent No.2-State Bank of Patiala, rather, he very fairly submits that he has no objection, in case, the conviction of the petitioner is set aside.

I have heard learned counsel for the parties and have perused the paper book with their able assistance.

Once the parties have settled their dispute, in terms of the judgment of Hon'ble the Supreme Court in ***Vinay Devanna Nayak v. Ryot Seva Sahakari Bank Ltd., 2008(1) RCR (Criminal) 249***, the offence

committed by the petitioner for which he has been convicted, is compoundable. Relevant paras therefrom are extracted below :-

*“17. As observed by this Court in **Electronic Trade & Technology Development Corporation Ltd. v. Indian Technologies & Engineers, 1996(1) RCR (Criminal) 592: (1996)2 SCC 739**, the object of bringing Section 138 in the statute book is to inculcate faith in the efficacy of banking operations and credibility in transacting business on negotiable instruments. The provision is intended to prevent dishonesty on the part of the drawer of negotiable instruments in issuing cheques without sufficient funds or with a view to inducing the payee or holder in due course to act upon it. It thus seeks to promote the efficacy of bank operations and ensures credibility in transacting business through cheques. In such matters, therefore, normally compounding of offences should not be denied. Presumably, Parliament also realised this aspect and inserted Section 147 by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002. (Act 55 of 2002). The said section reads thus:*

*S.147. Offences to be compoundable.-
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.*

18. Taking into consideration even the said provision (Section 147) and the primary object underlying Section 138, in our judgment, there is no reason to refuse compromise between the parties. We, therefore, dispose of the appeal on the basis of the settlement arrived at between the appellant and the respondent.

19. For the foregoing reasons the appeal deserves to be allowed and is accordingly allowed by holding that since the matter has been compromised between the parties and the amount of Rs.45,000/- has been paid by the appellant

towards full and final settlement to the respondent-bank towards its dues, the appellant is entitled to acquittal. The order of conviction and sentence recorded by all courts is set aside and he is acquitted of the charge levelled against him.”

It is noted that vide order dated 22.12.2022 passed by this Court, learned counsel for the petitioner was directed to bring 15% of the cheque amount in question in terms of the decision of Hon’ble the Apex Court in ***Damodar S. Prabhu vs Sayed Babalal H. 2010(5) SCC 663***. Pursuant thereto, learned counsel for the petitioner has produced a photocopy of Demand Draft bearing No.363046 dated 07.02.2023 amounting to Rs.1,05,750/-, in favour of Punjab State Legal Services Authority drawn at State Bank of India, Mohali, and also the receipt, showing that the aforesaid demand draft has been deposited with the ‘Punjab State Legal Services Authority’, which is taken on record and marked as ‘**Mark A**’.

In view of aforementioned facts and circumstances, especially the factum of settlement of dispute between the parties, the offence and conviction is compoundable, accordingly, the application for compounding is allowed and it is directed that the order of conviction and sentence awarded by the Courts below in the case of the petitioner is set aside and he is acquitted from all the charges leveled against him.

The petition is disposed of accordingly.

Pending application/s, if any, shall stand disposed of.

February 08, 2023
renu/gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No