

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(247)

2023:PHHC:055753
CRR-2853-2022(O&M)
Date of Decision: 20.04.2023

Raj Kumar

--Petitioner

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Rajesh Goyal, Advocate for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

Mr. Nitish Yadav, Advocate for respondent no.2.

RAJESH BHARDWAJ.J (Oral)

This revision has been filed by the petitioner impugning the judgement dated 1.6.2016 and order of sentence dated 2.6.2016 passed by learned JMIC, Karnal whereby petitioner has been awarded one year RI and further directed to pay cheque amount of Rs.2,10,000/-. The conviction and sentence awarded by learned trial Court has been upheld vide judgement dated 14.12.2022 passed by learned Addl. Sessions Judge, Karnal.

As per the facts of the case, petitioner, who was having friendly relations with the complainant borrowed a sum of Rs.2,10,000/- from him as loan. In order to discharge his legal liability, the accused/petitioner issued a cheque bearing No.635380 dated 18.3.2013 in favour of the respondent/complainant drawn at Oriental Bank of Commerce, G.T. Road, Karnal. When the complainant presented the said cheque with his banker, the same was dishonoured vide memo dated 23.3.2013 with remarks "Funds Insufficient". Thereafter, the respondent-complainant sent a legal notice dated 22.4.2014 to the accused/petitioner requesting him to make payment but despite that, no payment was made and thus, the complaint was filed.

On the conclusion of the trial the petitioner was convicted and sentenced by the trial Court vide order dated 1.6.2016/2.6.2016 whereby the petitioner was sentenced to undergo rigorous imprisonment for a period of one year under Section 138 of Negotiable Instruments Act. Petitioner was further directed to pay compensation of Rs.2,10,000/- to respondent/complainant as per the provisions of Section 357(3) Cr.P.C. Aggrieved by the same, the petitioner filed an appeal and the Appellate Court also upheld the conviction and sentence as awarded by learned trial Court and thus, dismissed the appeal vide its order dated 14.12.2022. Aggrieved by the same, the petitioner has filed the present revision petition.

Learned counsel for the petitioner has stated that during the pendency of this revision petition, petitioner has already handed over an amount of Rs.2,50,000/- in cash to the complainant/respondent no.2 as directed by this court. He submits that parties have amicably settled their dispute and have arrived at a compromise. It is further submitted that in view of the settlement effected between the parties, the prosecution of the petitioner would be nothing but an abuse of the process of the Court and thus, the petitioner be allowed to compound the offence and he be acquitted of the charge under Section 138 of Negotiable Instruments Act in view of the law laid down by Hon'ble Supreme Court in ***Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851***. He has further relied upon the judgment dated 18.09.2013 passed in ***CRR-3275-2012 titled as Karam Chand Mittal Vs. Gian Chand and another***.

Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has prayed that the amount of Rs.2,50,000/- has been paid in cash to the

complainant/respondent no.2 and parties have arrived at a compromise. He further states that respondent no.2 has no objection if the present petition is allowed.

As the parties have amicably settled the matter and the petitioner has paid the agreed amount of Rs.2,50,000/- to the respondent/complainant, so, in view of the compromise effected between the parties and the law laid down by the Hon'ble Supreme Court in ***Damodar S. Prabhu's*** case (supra), offence is compounded and the petitioner is acquitted of the charges framed against him under Section 138 of Negotiable Instruments Act, 1881, subject to his depositing Rs.31,500/- (15% of the cheque amount) with the Poor Patients' Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. The judgement dated 14.12.2022 passed by the learned Addl. Sessions Judge, Karnal dismissing the appeal of the petitioner and order dated 1/2.6.2016 passed by learned JMIC, Karnal convicting and sentencing the petitioner as stated above, are set aside.

Petitioner is directed to file receipt of above said amount of Rs.31,500/- in the office within aforesaid period. In case the petitioner fails to deposit the above said amount within 15 days from the date of pronouncement of this order, the office is directed to list the present case in the ordinary list as IOIN for further orders. Revision petition is allowed in above terms.

(RAJESH BHARDWAJ)
JUDGE

20.04.2023

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No