

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**Date of decision : November 15, 2023****1. CRR No. 1911 of 2018**

M/s Shree Om Traders and anotherPetitioners

Versus

R.S.Trading Company and anotherRespondents

2. CRR No. 1918 of 2018

M/s Shree Om Traders and anotherPetitioners

Versus

R.S.Trading Company and anotherRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Kunal Dawar, Advocate, for the petitioners
Mr. M.R.Sharma, Advocate, for respondent No. 1
Mr. Chetan Sharma, DAG, Haryana

KULDEEP TIWARI,J.

1. Since both these revision petitions derive their origination from alike facts, besides identical questions of law are involved therein, therefore, they are amenable for being decided through a common verdict. For the sake of brevity, the facts are being extracted from CRR-1911-2018.

2. The instant revision petition is directed against the impugned verdict of conviction and consequent thereto order of sentence, as drawn by the learned Judicial Magistrate Ist Class, Faridabad, respectively on 27.05.2015 and 29.05.2015, whereby, the petitioner(s) has been convicted for offence punishable under

Section 138 of the Negotiable Instruments Act (hereinafter referred to as the 'N.I. Act'), and, has been sentenced to undergo simple imprisonment for six months and to pay compensation to the tune of Rs.92,600/- to the respondent No.1.

3. In addition, the instant revision petition also assails the verdict dated 23.05.2018, as passed by the learned Additional Sessions Judge, Faridabad, whereby, the statutory appeal preferred by the petitioners against the impugned verdict of conviction and order of sentence (supra) was dismissed.

4. Since the instant revision petition garners its genesis from the dishonor of two cheques, as issued by the petitioners in favour of the respondent No.1/complainant, it is deemed imperative to first succinctly extract the chronological factual matrix of the case.

5. The respondent No.1, which is a proprietorship firm, being the registered owner of the vehicle, make: Ashoka Leyland Container, bearing Registration No. HR-38-P-7505, was contacted by the petitioner No.2 for use and occupation of the said vehicle. The said vehicle was financed by ICICI Bank Limited. Accordingly, the respondent No.1 agreed to hand-over the vehicle to the petitioner No.2 on the terms and conditions, as mentioned in the relevant agreement. As per the terms and conditions of the relevant agreement, since the remaining installments of the vehicle were to be paid by the petitioner No.2, therefore, the petitioner No.2, being proprietor of petitioner No.1-firm, issued 30 postdated cheques in

favour of the respondent No.1, through his firm. However, when Cheque bearing No.577511 dated 14.8.2011 for Rs.35,390/-, and, Cheque No. 577512 dated 14.9.2011 Rs.35,390/-, both drawn on Punjab National Bank, Jharsentli Branch, Ballabgarh (hereinafter referred to as the 'disputed cheques') were presented before the bank concerned, the same were returned dishonoured, vide bank return memos dated 04.10.2011, with the remarks "Exceeds Arrangements". Consequently, the respondent No.1 served a legal notice upon the petitioners. However, since the legal notice did not reap any fruitful results, the respondent No.1 was propelled to institute a complaint under Section 138 of the N.I. Act before the learned Magistrate concerned. Ultimately, the said complaint resulted in conviction of the petitioner(s), in the manner described hereinabove.

6. Upon the instant revision petition coming before this Court for initial hearing, on 30.05.2018, the learned counsel for the petitioners made a submission qua readiness and willingness of the petitioners to deposit 50% of the total disputed cheque amount of Rs.70,780/-, whereupon, after issuing notice of motion, this Court directed release of the petitioners on interim bail, if 50% of the total disputed cheque amount becomes deposited.

7. Pursuant to the making of the directions (supra), the petitioners deposited 50% of the total disputed cheque amount and the said factum did not become disputed by the respondent

No.1/complainant. Subsequently, on 04.12.2018, upon a ray of hope, qua compounding the offences, being expressed by the learned counsels appearing for the parties, this Court relegated the parties to the Mediation and Conciliation Centre of this Court.

8. Thereafter, in due course, the parties compromised the matter, through amicable settlement, which was reduced into writing. The relevant extract of the compromise so effected inter se the parties is extracted hereinafter:-

“...That now both the parties have arrived at a compromise in the Panchayat, which was held by the members of both the parties. Now first party and second party have resolved the matters amicably and without any pressure or coercion, as per which, second party has given the entire amount of cheque with penalty as full and final payments towards Case No.6 of 2006. As per settlement, the amount which was deposited by the order of the Hon’ble High Court will be released in favour of party of the first part....”

9. The learned counsels appearing for the parties have also lent corroboration to the hereinabove extracted compromise deed. Moreover, the learned counsel for the respondent No.1/complainant and the learned State counsel have also expressed their “No Objection” in case the present revision petition is allowed and the petitioners are acquitted, since the parties have reached at a compromise.

10. What emanates from the hereinabove discussed material

and submissions, is that, both the parties are *ad idem* that they have compromised the matter through amicable settlement, without any pressure, threat or undue influence, therefore, the offence(s) be compounded, so that the peace and harmony may get restored inter se the parties.

11. Learned counsel for the petitioners has also placed reliance upon judgment of Hon'ble Supreme Court in ***A.T. Sivaperumal Vs. Mohammed Hyath (D) By Lrs. 2017(2) R.C.R. (Criminal) 453*** and in ***A.J. Asana Vs. Sittrarasu 2019(5) R.C.R. (Criminal) 568***.

12. In view of the submissions made by the counsels for the parties and the ratio of law laid down by the Apex Court in ***A.T. Sivaperumal's case (supra) and in A.J. Asana's case (supra)*** both the petitions bearing CRR-1911-2018 and CRR-1918-2018 are allowed. The aforesaid complaints and all consequential proceedings arising out of these, including the judgments of conviction dated 27.5.2015 and orders of sentence dated 29.5.2015 passed by the learned Judicial Magistrate 1st Class, Faridabad, in both the complaints, are hereby quashed.

13. The parties shall remain bound by the terms and conditions of the compromise.

November 15, 2023

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**(KULDEEP TIWARI)
JUDGE**

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No