IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CRR-190-2023(O&M)

Date of Decision:-28.11.2023

Sombir.

......Petitioner.

Vs.

Central Bank of India.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Vishavjeet Singh Brar, Advocate for
Mr. Deepak Kohli, Advocate for the Petitioner.

Mr. Sourabh Bhardwaj, Advocate for the respondent-Central Bank of India.

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JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed against the judgment dated 29.10.2022 passed by the Additional Sessions Judge, Sirsa vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 03.10.2018/05.10.2018 passed by the learned Judicial Magistrate, 1st Class, Sirsa, has been dismissed.

2. The brief facts of the case are that the petitioner/accused in order to discharge his legal liability issued cheque bearing No.154932 dated 4.8.2015 for a sum of Rs.20,000/- drawn at Central Bank of India, Branch Circular Road Sirsa. It was also assured that the said cheque would be honoured on presentation. The aforesaid cheque was presented before the drawee bank/Central Bank of India, Branch Circular Road, Sirsa by the complainant and the same was returned bank on 4.8.2015 with returning memo having remarks "INSUFFICIENT FUNDS". A legal notice was

served upon the accused requiring him to make the payment of the cheque. However, since the accused failed to pay the cheque amount to the complainant within the statutory period, the complainant was constrained to file a complaint under Sections 138/142 of the Negotiable Instruments Act, 1881 in which the accused was summoned to face the trial.

3. The evidence was led and ultimately, the accused was held guilty and accordingly, convicted for the offence punishable under Sections 138/142 of the Negotiable Instruments Act, 1881 and sentenced to undergo rigorous imprisonment for a period of 06 months. The accused was also ordered to pay an amount of Rs.20,000/- as compensation to the complainant within a period of one month. In default of payment of compensation, the petitioner was to undergo imprisonment for 02 months.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused preferred an appeal before the Additional Sessions Judge, Sirsa, which came to be dismissed on 29.10.2022.

5. Still aggrieved, the present revision petition has been preferred by the accused. During the pendency of the present criminal revision petition, an oral compromise has been arrived at between the parties. It would be relevant to mention here that a combined reading of Section 147 of the Negotiable Instruments Act alongwith Section 320 Cr.P.C. would establish that where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for the complainant has accepted the factum of the compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him as a sum of

Rs.10,000/- has been received by the complainant bank against the cheque amount of Rs.20,000/-.

7. I have heard the learned counsel for the parties.

8. This Court in '***Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245***' held as under:-

> *"4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-*
>
> *"Offence to be compoundable-*
>
> *Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable".*
>
> *5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.*
>
> *6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded."*

9. This Court in '***Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019***' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

10. The admitted position is that the matter stands settled on the basis of an oral compromise/settlement between the parties.

11. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to

compound the offence.

12. Accordingly, the revision petition is allowed and the judgment dated 29.10.2022 passed by the Additional Sessions Judge, Sirsa and the judgment of conviction and order of sentence dated 03.10.2018/05.10.2018 passed by the learned Judicial Magistrate, 1st Class, Sirsa are hereby set aside. The petitioner is acquitted of the charges under Sections 138/142 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

November 28, 2023
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***