

CRR-2904-2023 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2904-2023 (O& M)

Date of decision: 19.12.2023

Lovepreet Singh

.... Petitioner

V/s

Punjab National Bank

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Arihant Goyal, Advocate,
for the petitioner.

Mr. Gaurav Goel, Standing Counsel
For the respondent-Bank.

JASJIT SINGH BEDI, J. (Oral)

CRM-53396-2023

The application for placing on record documents dated 01.01.2023
(Annexure P-1 and P-2) is allowed as prayed for. The aforesaid documents
are taken on record.

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The present revision petition has been filed against the judgment
dated 20.11.2023 passed by the Additional Sessions Judge, Mansa vide which
the appeal preferred by the petitioner against the judgment of conviction and
order of sentence dated 22.02.2017 passed by the Additional Chief Judicial
Magistrate, Mansa, has been dismissed.

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2. Briefly, the facts of the case are that the accused-petitioner had raised a loan for an amount of Rs.6,37,000/- and a limit loan of Rs.2,52,000/- totalling Rs.8.89,000/- from the respondent/complainant-Bank. Thereafter, the loan account was declared NPA on 17.04.2015 and in order to discharge his legal liability, the accused-petitioner issued a cheque bearing No.44026 dated 12.10.2015 for a sum of Rs.8,36,000/- in favour of the respondent-Bank. On presentation of the said cheque, the same was returned with the remarks 'Funds Insufficient' vide memo dated 12.10.2015. Thereafter, the respondent-Bank issued a registered notice on 14.10.2015 to the petitioner. But the accused-petitioner did not make any payment to the respondent-Bank.

3. Thereafter, a complaint under Section 138 of the Negotiable Instruments Act, 1881, was filed, where the petitioner-accused was summoned to face the trial. The evidence was led and ultimately, he was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced to undergo rigorous imprisonment for a period of 01 year and to pay fine of Rs.1,000/- and in default of payment to further undergo imprisonment for 01 month.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Mansa, which came to be dismissed on 20.11.2023.

5. Still aggrieved, the present revision petition has been preferred by the petitioner.

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6. During the pendency of the present revision petition, a settlement has been arrived at between the parties.

7. The learned counsel for the petitioner while referring to the Annexures P-1 and P-2 submits that the matter has been settled with the respondent Bank, pursuant to which, an amount of Rs.4,63,303/- has been paid by the family of the petitioner and the account of M/s Kaler Shuttering Store i.e. Proprietorship firm of the petitioner has been closed and a No Due Certificate has been issued by the respondent-Bank in favour of the petitioner. Therefore, the matter has been settled amicably to the entire satisfaction of both the parties and now the parties shall not claim any further amount or costs in this matter. Both the parties have agreed to relinquish all their rights arising out of this matter.

8. The learned counsel for the complainant-respondent Bank on instructions from Rakesh Kumar, Manager, Punjab National Bank, Bhikkhi Branch, has accepted the factum of settlement and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

9. I have heard the learned counsel for both the parties.

10. 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-

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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.”

11. 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.

12. 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.

13. Accordingly, the revision petition is allowed and the order dated 20.11.2023 passed by the Additional Sessions Judge, Mansa and judgment of conviction and order of sentence dated 22.02.2017 passed by the Additional Chief Judicial Magistrate, Mansa, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

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Since the main petition has been disposed of, no order needs to be passed in the criminal miscellaneous application(s), if any.

(JASJIT SINGH BEDI)
JUDGE

December 19, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No