

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRR-413-2022 (O&M)
Date of Decision:-19.01.2024

Raju

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Chanakya Batta, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

Mr. Deepanshu Mehta, Advocate, for respondent No.2.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court challenging order dated 18.2.2022 passed by learned Additional Sessions Judge, Moga, whereby the learned Additional Sessions Judge, Moga, while dismissing his appeal, has affirmed the conviction of the petitioner for offence under Section 138 Negotiable Instruments Act.
2. Learned counsel for the petitioner submits that the petitioner was convicted vide judgment dated 27.2.2020 passed by learned Judicial Magistrate 1st

Class, Moga for offence punishable under Section 138 of Negotiable Instruments Act on account of dishonour of cheque for an amount of Rs.2.5 lacs and was sentenced to undergo rigorous imprisonment for one year apart from the imposition of fine to the tune of Rs.5000/-.

3. Although the petitioner challenged the said judgment dated 27.2.2020 by way of filing an appeal, but the said appeal also came to be dismissed vide judgment dated 18.02.2022 passed by learned Additional Sessions Judge, Moga.
4. During the pendency of the instant revision petition, it was represented by the learned counsel for the petitioner that the matter could be compromised and consequently the matter had been adjourned to enable the petitioner to seek necessary instructions. The following order was passed on 28.03.2022:

“The learned counsel for the petitioner has submitted that total subject matter of the cheque amount was Rs.2,50,000/- and the petitioner is ready and willing to give the same to respondent No.2 and he has also brought a demand draft of Rs.2,50,000/-, a copy of which is taken on record as Mark 'A'.

Let the learned counsel for the petitioner deposit the same in the Registry of this Court.

Notice of motion for 5.5.2022.

Mr.Randhir Singh Thind, DAG, Punjab, accepts notice on behalf of respondent No.1 – State.

Let separate notice to respondent No.2 be issued on filing of process fee.

Dasti as well.”

5. Mr. Deepanshu Mehta, Advocate, representing the complainant has stated that his client i.e. respondent No.2 has compromised the matter with the petitioner the entire cheque amount has already been received by him and that he has no

other claim against the petitioner and would not have any objection in case the impugned judgments are set aside and he is acquitted from all the charges.

6. Learned counsel for the petitioner has informed that the petitioner has also deposited an amount of Rs.37,500/- in accordance with the decision of Hon’ble Apex Court in Damodar S. Prabhu Vs. Sayed Babalal H. (2010) 5 SCC 663, being 15% of the cheque amount with Punjab State Legal Services Authority, Mohali. A copy of the receipt is also annexed with the file.
7. In view of the aforestated position, wherein this Court finds that the matter has amicably been resolved between the parties and the entire amount already stands paid back to the complainant and the petitioner has even paid the 15% of the cheque amount in tune with judgment of Hon’ble Apex Court in Damodar’s case (Supra), the revision petition is accepted and the judgment/order dated 27.2.2020 passed by learned Judicial Magistrate 1st Class, Moga and judgment dated 18.2.2022 passed by learned Additional Sessions Judge, Moga are hereby set aside and the petitioner is ordered to be acquitted of all the charges framed against him. Bail bonds/surety bonds shall stand discharged.

19.01.2024

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No