

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16914-2017

Date of Decision :14.02.2024

2024:PHHC: 021111

RAJINDER KUMAR

.... PETITIONER

Vs.

VINOD

.... RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sanjeev Kumar Yadav, Advocate,
for the Petitioner.

Mr. Sanjay Verma, Advocate, for
Mr. Parvesh, Advocate, for the respondent.

DEEPAK GUPTA, J.

Criminal complaint No.13/2015 (Annexure P1), was filed by petitioner-Rajinder Kumar to prosecute respondent-Vinod under Section 138 of the NI Act regarding dishonour of a cheque for an amount of ₹1,70,000/-.

2. During the course of trial, matter was taken up before Lok Adalat. Settlement was arrived at between the parties and respondent undertook to pay the settlement amount of ₹1,20,000/- by way of three installments of ₹40,000/- each as per the agreed schedule. He made the following statement (Annexure P2) to that effect on 21.03.2015, before General Lok Adalat: -

*“Statement of Vinod aged 41 years occupation Laborer, resident of Shahabad,
District Kurukshetra.*

On SA

Stated that in the present case, the matter has been compromise with complainant Rajender in a sum of Rs.1,20,000/-. As per compromise I will keep on paying first installment of Rs.40,000/- on 30.04.2015, second of Rs.40,000/- on 30.06.2015 and third on 31.08.2015 of Rs.40,000/- to Rajender. If I will make

default in payment of any of installment in time, then Rajender will have right to prosecute the present case again as per cheque amount and Hon'ble court will have right to dispose of the present case as per law, I will remain abide by my statement.

RO&AC
LTI Vinod

Sd/-
Saloni Gupta
Presiding Officer”

4. In view of the aforesaid settlement; and the statement (Annexure P2) made by the respondent, petitioner withdrew the complaint, which was dismissed as withdrawn by the Court vide order dated 21.03.2015 (Annexure P4).

5. Ld. counsel for the petitioner contends that thereafter, petitioner did not pay even a single penny and therefore, petitioner moved an application (Annexure P5) before the Court concerned so as to revive the complaint. However, that application was dismissed vide impugned order dated 06.04.2017 (Annexure P7).

6. By way of this petition, petitioner has prayed for directing the Court concerned to revive the complaint (Annexure P1); and also to set aside the order dated 06.04.2017 (Annexure P7).

7. Ld. counsel for the respondent does not dispute that the statement (Annexure P2) was made by the respondent in General Lok Adalat, so as to pay the settlement money of ₹1,20,000/- in three installments as per the agreed schedule. However, he contends that respondent has already made the entire payment, but the petitioner did not issue any receipt.

8. The stand as taken by the respondent through his counsel to the effect that he has already made payment pursuant to settlement, is absolutely not believable at this stage, in the absence of any receipt. It is

hard to believe that while making statement (Annexure P2), in which there was a condition that in case of default in payment, petitioner-complainant will have the right to prosecute the case, the respondent-accused will make the payment without obtaining any receipt.

9. In the aforesaid facts and circumstances, the Id. trial Court was not at all justified in not accepting the application of the petitioner so as to revive the complaint, as in such like situation, when the respondent-accused has wriggled out from the compromise effected by him in General Lok Adalat, the complainant-petitioner cannot be left without any remedy.

10. As such, the present petition is hereby allowed. Complaint (Annexure P1) is directed to be restored. Trial Court is directed to restore the complaint (Annexure P1), to its original number and proceed further with the same in accordance with law.

11. Parties through their respective counsels are directed to appear before the trial Court on 04.03.2024 for further proceedings. Since the parties have informed the next date of hearing before the trial Court through their counsel by this court, no further notice shall be required to be served by the trial Court.

14.02.2024

Vivek

(DEEPAK GUPTA)
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |