

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.264

CRR-888-2023 (O&M)
Date of decision:19.03.2024

Ranjeet Kaur

...Petitioner

Versus

Ekam Singh and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Dhanpat Rai Singla, Advocate for the petitioner.

Mr. Sumeet Singh Brar, Advocate for respondent No.1.

Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present revision petition against the impugned judgment dated 15.02.2023 passed by the Court of Sessions Judge, Bathinda and the judgment and order dated 20.12.2021 passed by the Judicial Magistrate 1st Class, Bathinda, whereby the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 (hereinafter referred to as 'the Act').

2. During the pendency of the present revision petition, the petitioner moved an application bearing CRM-34496-2023 under Section 147 of the Act read with Section 482 Cr.P.C. with a prayer to grant permission to the parties to compound the offence and for acquittal of the petitioner on the basis of compromise (Annexure P-1).

3. Learned counsel for the petitioner contends that with the intervention of the respectables, the matter had been compromised between the parties in terms of the compromise deed (Annexure P-1) and the entire payment had been made to the respondent/complainant in the present case. Consequently, it is prayed that the petitioner may be ordered to be acquitted, on the basis of compromise in the present case.

4. A short reply has been filed by respondent No.1/complainant in the present case.

5. Learned counsel appearing on behalf of respondent No.1/complainant submits that the parties had amicably resolved all the disputes and respondent No.1 had no objection in case the petitioner is ordered to be acquitted by this Court on the basis of compromise. Learned counsel further contended that the parties had entered into a compromise with their free will and without any pressure or coercion. Even along with short reply, the affidavit of respondent No.1 has also been filed, which was already taken on record.

6. Learned counsel for the petitioner by relying upon **Cochin Hotels Co.(P) Ltd. and others Vs. Kairali Granites and others, 2006(2) RCR (Criminal) 333** and **K. Subramanian Vs. R.Rajathi represented by POAP Kaliappan, 2010 (1) RCR (Criminal) 184** contended that even after finalization of judgment of conviction and order of sentence, petitioner can resort to compounding mechanism in terms of Section 147 of the Act as the offence related to dishonouring of cheque is having compensatory profile and it should be given precedence over punitive mechanism. Offence is almost a civil wrong which has been clothed in a criminal overtone, therefore, the priority should be given to compensatory mechanism.

7. Learned counsel also relied upon **Damodar S. Prabhu vs. Sayed Babalal H.(supra) Kaushalya Devi Massand vs.Roopkishore, 2011(2) RCR (Criminal) 298** and contended that the compromise in question would definitely go in long way to strengthen the mutual relationship between the parties and would serve as an ever lasting tool in their favour. This exercise would be in consonance with the spirit of Section 147 of the Act as endorsed in **Damodar S. Prabhu's case (supra)**.

8 So far as 15% of the cheque amount in terms of ratio of **Damodar S. Prabhu's case (supra)** is concerned, I am of the view that Section 147 of the Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in *stricto sensu*, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court.

9. In the present case, it is apparent that the petitioner is 56 years old lady and her son Satpal Singh is a divorcee. Her minor son Manpreet is also residing with her and she is a heart patient. Thus, taking a lenient view in the matter, 15% of the cheque amount towards costs of litigation is waived off in the interest of justice.

10. In view of the above discussion, the impugned judgment dated 15.02.2023 passed by the Court of Sessions Judge, Bathinda and the judgment of conviction and order of sentence dated 20.12.2021 passed by the JMIC, Bathinda, are set aside and the parties are allowed to compound the offence in terms of Section 147 of the Act and the petitioner is ordered to be acquitted of the charge.

11. Pending application(s), if any, is also ordered to be disposed of.

19.03.2024
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO