



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CRR-935-2022 (O & M)**

**Date of decision: 30.08.2024**

Arun Kumar Rana

.... Petitioner

V/s

Gagan Singh and anr.

...Respondents

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

Present: Mr. Abhinav Sood, Advocate, for the petitioner.

Mr. Sarfraz Hussain, Advocate, for respondent No.1.

Mr. Karan Garg, AAG, Haryana, for respondent No.2-State.

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**JASJIT SINGH BEDI, J. (Oral)**

The present revision petition has been filed against the judgment dated 04.04.2022 passed by the Additional Sessions Judge, Gurugram, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 09/11.10.2018 passed by the Judicial Magistrate 1st Class, Gurugram has been dismissed.

2. The brief facts of the case are that the petitioner-accused/Arun Kumar Rana through a common friend Mr. Atul Sehrawat met the complainant-respondent No.1/Gagan Singh as the petitioner-accused was in urgent need of Rs.10,00,000/-. Being a friend of Atul Sehrawat, the complainant agreed to give the said amount and gave money through Cheque No.96755 dated 25.02.2014. On that very day, the accused had also issued a post dated cheque of Indian Bank of Rs.10,00,000/- as well as a hand written receipt in favour of the complainant. Thereafter, on various occasions, the accused had borrowed a



sum of Rs.60,00,000/- in parts by way of all modes like by RTGS, transfer, cheque and in cash with the assurance that the payment of the accused company will be released shortly and all the borrowed amount will be paid to the complainant. On 08.05.2016, accused and his friend Atul Sehrawat met the complainant at his office and handed over a cheque bearing No.535440 dated 12.05.2016 for a sum of Rs.60,00,000/- and on previous cheque of Rs.10,00,000/- accused filled the date and name of the complainant after admitting his pre-existing and accepted liability. He also executed a hand written receipt in favour of the complainant. The complainant presented the above mentioned cheque of Rs.60,00,000/- with his banker i.e. Indian Bank, Sector 17, Gurgaon but the same was returned as dishonoured with remarks "Funds Insufficient" vide memo dated 16.05.2016. Thereafter, the complainant presented another cheque bearing No.108910 dated 19.05.2016 for a sum of Rs.10,00,000/- drawn on Indian Bank, Gurugram for encashment, but the same was returned with the dishonouring memo dated 23.05.2016 with remarks "Funds Insufficient". The accused was served with a legal notice dated 31.05.2016 through his counsel for the repayment of the aforesaid amount but he failed to make the payment within the stipulated period of 15 days, leading to initiation of proceedings under Section 138 of the Negotiable Instruments Act, 1881.

3. In the complaint under Section 138 of the Negotiable Instruments Act, 1881 filed by the complainant, the petitioner-accused was summoned to face trial. The evidence was led and ultimately, the accused-petitioner was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and



sentenced to undergo simple imprisonment for a period of one year and to pay a compensation to the tune of Rs.1,05,00,000/-.

4. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Gurugram, which came to be dismissed on 04.04.2022.

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

6. The learned counsel for the petitioner contends that during the pendency of the revision petition, a compromise/MoU (Annexure A-1) has been effected between the parties and it was agreed that the petitioner-accused shall pay a sum of Rs.81,00,000/- against a sum of Rs.1,05,00,000/- to the complainant-respondent No.1 as full and final settlement. In compliance with the terms of the aforesaid compromise, the petitioner-accused had already made a payment of Rs.61,00,000/- in parts to the complainant-respondent and in compliance of the order dated 23.08.2024, the remaining amount of Rs.20,00,000/- has been paid by the petitioner-accused to the learned counsel for the complainant/respondent No.1 by way of two separate cheques bearing No.448019 and 448020 dated 29.08.2024 for a sum of Rs.10,00,000/- each and nothing is due towards him. A photocopy of the aforesaid cheques is taken on record as Mark 'A'. In view of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. 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 respondent No.1 alongwith the learned State counsel for respondent No.2 contend that as the matter has been settled between the parties, they have no objection if the prayer of the petitioner for compounding the offence under Section 138 N.I. Act is allowed and the petitioner is acquitted of the charges framed against him.

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

8. This Hon'ble 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. 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.

11. Accordingly, the revision petition is allowed and subject to payment of Rs.3,00,000- as costs to be deposited with Society for the Care of Blind, Sector 26, Chandigarh Account No.10506615304, IFSC Code:- SBIN0003246, MICR Code:160002014, State Bank of India, the judgment dated 04.04.2022 passed by the Additional Sessions Judge, Gurugram, as well as the judgment of conviction and order of sentence dated 09/11.10.2018 passed by the Judicial Magistrate 1st Class, Gurugram, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

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

( JASJIT SINGH BEDI)  
JUDGE

August 30, 2024  
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No