

2024:PHHC:152284



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

243/4

**CRR-1298-2023(O&M)
Decided on : 20.11.2024**

Krishan Kumar

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Ishan Bhardwaj, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

Mr. Jainainder Saini, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)

The present revision petition has been filed against the judgment dated 20.01.2023 passed by the Addl. Sessions Judge, Hisar, vide which the appeal preferred by the petitioner/accused against the judgment of conviction and order of sentence dated 01.09.2016/08.09.2016 passed by the JMIC, Hisar, has been dismissed.

2. The brief facts of the case are that the complainant appointed the petitioner as its distributor of pesticides products. The petitioner purchased pesticides products from the complainant, on credit basis, for a sum of Rs.31,23,098/-. In discharge of his liability the petitioner issued a cheque bearing No.445626 dated 10.03.2015 for an amount of Rs.31,23,098/- which was dishonoured with remarks “funds insufficient”

returned vide memo dated 12.03.2015. Thereafter, complainant respondent No.2 sent a legal notice to the petitioner on 12.03.2015 but the petitioner failed to make the payment within the stipulated period of 15 days and the complainant respondent no.2 lodged a complaint under Section 138 of Negotiable Instruments Act, 1881 and the proceedings culminated into conviction and a sentence was awarded to the petitioner to undergo SI for a period of 03 months and to pay compensation to the tune of above-stated cheque amount.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused preferred an appeal before the Additional Sessions Judge, Faridkot, which came to be dismissed on 20.01.2023.

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

6. On 16.07.2024, learned counsel for the petitioner submitted that the petitioner is willing to settle the disputed amount. He further submitted that if the petitioner is granted interim suspension of sentence for a period of 03 weeks, he would be in a position to explore the possibility of settling the dispute. Learned counsel for the complainant respondent No.2 also agreed to this proposal. Consequently, this Court referred the matter to the Mediation and Conciliation Centre to explore the possibility of an amicable settlement, while granting interim suspension to the petitioner for a period of 03 weeks.

7. Today, report dated 26.09.2024 from the Mediation and Conciliation Centre has been received in this Court stating a compromise has been arrived at between the parties and it was agreed that the petitioner-accused shall pay a sum of Rs.20,50,000/- to the complainant-respondent No.2 as full and final settlement and further agreed that the payment shall be

8. The learned counsel for the petitioner submits that in view of the compromise arrived and provisions of Section 147 of N.I. Act, the parties may be allowed to compound the offence.

9. The learned counsel for the complainant/respondent No.2 has accepted the factum of the compromise and has stated that he has 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. However, he prays that in event of non-fulfilling of the terms of settlement agreement liberty may be granted to avail his remedies in accordance with law.

10. I have heard the learned counsel for the parties.

11. 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-

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.”

12. 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.

13. In view of report of Mediation and Conciliation Centre of this Court, since, the parties have settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

14. Accordingly, the revision petition is allowed and the judgment dated 20.01.2023 passed by the Addl. Sessions Judge, Hisar and the judgment of conviction and order of sentence dated 01.09.2016/08.09.2016 passed by the JMIC Hisar are hereby set aside. The petitioner is acquitted of the charges under Section 138 of the Negotiable Instruments Act. Further, in case of any violation or failure on the part of the petitioner to abide by the terms of the settlement agreement dated 26.09.2024, liberty is granted to the complainant respondent No.2 to avail his remedies in accordance with law.

15 This compounding is subject to the petitioner depositing an amount of Rs.20,000/- to be deposited in the Poor Patients Welfare Fund, PGIMER Chandigarh within a period of one month, failing which this entire order, including compounding, shall automatically stand recalled under Sections 362 and 482 of Cr.P.C.

16. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

20.11.2024

Ramandeep singh

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*