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

CRR-1103-2023 (O&M)

Date of Decision: 31.07.2024

Rajwant Singh and others

..... Petitioners

Versus

Ram Kumar Rana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jatinder Kumar Kansal, Advocate, for the petitioners.

Mr. V.K. Gupta, Advocate, for the respondent.

Rajesh Bhardwaj, J.

1. Present revision petition has been filed by the petitioners impugning the order of conviction dated 16.02.2016 passed by learned trial Court and order dated 18.04.2023, whereby, appeal filed by the petitioners against the order dated 16.02.2016, was dismissed and also order dated 18.04.2023, whereby, an application under Section 391 Cr.P.C. for leading additional evidence at the appellate stage, was also dismissed.

2. The case as enumerated from the facts and circumstances is that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act) was filed against the petitioners by the respondent on the allegations that the petitioners demanded Rs.80 lacs from the respondent-complainant for carrying out their business with the assurance that they will return the entire amount within a period of two months alongwith interest. The respondent-complainant agreed to give Rs.75 lacs to the petitioners in good faith and he advanced the money in the month of October, 2010. On demanding back the money, the petitioners handed over a post dated cheque No.010389 dated 30.04.2009 amounting to Rs.75 lacs drawn on Central



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Bank of India, Sector 70, Mohali to the respondent-complainant with the assurance that the same would be honoured when presented before the Bank. However, on presentation of the cheque, the same was returned with the remarks 'Funds Insufficient'. Thereafter, the respondent-complainant sent a legal notice dated 07.07.2009 to the petitioners for making the payment but despite that the petitioners failed to make payment and thus, a complaint was filed. On the conclusion of trial, the petitioners were convicted and sentenced under Section 138 of the Negotiable Instruments Act, to undergo rigorous imprisonment for a period of two years each. The petitioners were also burdened with joint compensation of Rs.1 Crore to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned JMIC, the petitioners assailed the same by way of filing an appeal before the learned Appellate Court. Learned Appellate Court, finding no merit in the appeal, dismissed the same by upholding the conviction of the petitioners, however, sentence qua petitioner Kuldeep Kaur was modified by reducing the same from two years to one year vide its order dated 18.04.2023. An application filed under Section 391 Cr.P.C. was also declined by learned Additional Sessions Judge by the same order. Hence, the petitioners have approached this Court by way of filing the present revision petition challenging the above said orders.

3. Learned counsel for the petitioners has fairly submitted that during the pendency of the present petition, the petitioners are ready to compound the offence by paying the compensation of Rs.1 Crore as awarded to the respondent-complainant. He submits that a separate application for compounding the offence is also filed alongwith the present



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revision. He has submitted that the parties have settled the dispute for Rs.1 Crore to be paid by the petitioners to the complainant and the said amount has been paid to the complainant-respondent and now nothing is due against them. He has further submitted that once the parties have settled the dispute amicably, then in view of the law settled, the petitioners be allowed to compound the offence and they be acquitted of the charge under Section 138 of Negotiable Instruments Act. He has placed reliance on the law laid down by Hon'ble Supreme Court in **Raj Reddy Kallem vs. The State of Haryana and another**, Law Finder Doc Id# 2557645, wherein, it has been held that there is no bar to seek the compounding of the offence at later stage of criminal proceedings including after conviction. He has further submitted that he does not press his prayer for setting aside the order dated 18.04.2023, vide which the application under Section 391 Cr.P.C. for leading additional evidence was dismissed by learned trial Court.

4. Learned counsel for the respondent has affirmed the contentions raised by learned counsel for the petitioners and has submitted that respondent-complainant has received the settled amount of Rs.1 Crore and he has no objection, if the present petition is allowed.

5. As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioners, who have already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent-complainant. In **Raj Reddy Kallem's** case (supra), it has been held that the accused must try for compounding of the offence at the initial stages instead of later stages, however, there is no bar to seek the compounding of offence at later stage of



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criminal proceedings including after conviction.

6. So keeping in view above facts and the law settled by Hon'ble Supreme Court, the petitioners are allowed to compound the offence and they are ordered to be acquitted of the charges framed against them. As a consequences, the order dated 18.04.2023 passed by learned Additional Sessions Judge, SAS Nagar Mohali and order dated 16.02.2016 passed by JMIC, SAS Nagar, Mohali, convicting and sentencing the petitioners under Section 138 of the NI Act, are set aside.

7. While taking into consideration the observations made by Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851**, the present revision petition is allowed subject to deposit of cost of Rs.11,25,000/- (being 15% of the cheque amount) /within a period of three months from today. The cost shall be deposited/paid to the persons/institutions in the manner given below:-

- | | |
|--|---------------|
| 1. Complainant | Rs.3,25,000/- |
| 2. Poor Patients' Welfare Fund, PGIMER, Chandigarh | Rs.2,00,000/- |
| 3. Punjab and Haryana High Court Employees Welfare Association | Rs.2,00,000/- |
| 4. Punjab Legal State Services Authority | Rs.2,00,000/- |
| 5. Punjab and Haryana Bar Association | Rs.2,00,000/- |

6. Petitioners are directed to file receipts of abovesaid amount of Rs.11,25,000/- in the office/Registry of this Court within aforesaid period. In case the petitioners fail to deposit the abovesaid amount within three months from today, the order dated 18.04.2023 passed by learned Additional Sessions Judge, SAS Nagar Mohali and order dated 16.02.2016 passed by JMIC, SAS Nagar, Mohali would become operational and the present petition would be deemed to have been dismissed.



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7. Revision petition is disposed of in above terms.

31.07.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No