

2024:PHHC:145896



CRM-14561-2024 in/and CRR-965-2010 (O & M)

::1::

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-14561-2024 in/and
CRR-965-2010 (O&M)
Date of Decision: 08.11.2024

Sukhdev Singh
... Petitioner

Versus

M/s Mohindera Hire Purchase
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kushagra Mahajan, Advocate,
for the petitioner.

Mr. Vijay Lath, Advocate, for the respondent.

JASJIT SINGH BEDI, J.

CRM-7247-2020

The application for placing on record Annexure P-1 dated 10.05.2017, Annexure P-2 dated 10.08.2017 and Annexure P-3 dated 08.03.2017, is allowed as prayed for subject to all just exceptions. The same are taken on record.

CRR-965-2010 (O & M)

The present revision petition has been filed impugning the judgment dated 01.02.2010 passed by the Additional Sessions Judge, Jalandhar whereby the appeal filed against the judgment of conviction and order of sentence dated



::2::

27.11.2007 passed by the Judicial Magistrate Ist Class, Jalandhar, has been dismissed.

2. The brief facts of the case are that the petitioner purchased a truck bearing No.HR-37-4071 under the hire purchase agreement from the respondent/complainant and in order to discharge part of his debt/liability issued a cheque bearing No.146462 dated 29.05.2003 for a sum of Rs.2,00,000/- drawn on Punjab National Bank, Taran Taran. As the cheque was dishonoured, proceedings were initiated under Section 138 of the Negotiable Instruments Act.

3. On culmination of the Trial, the petitioner came to be convicted and sentenced by the Court of the Judicial Magistrate Ist Class, Jalandhar vide judgment and order of sentence dated 27.11.2007 as under:-

Offence under Sections	Sentence RI/SI	Fine	RI/SI in default of payment of fine
138 N.I. Act	(RI) 01 year	Rs.5000/-	(RI) 04 months

4. The accused-petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Jalandhar, vide judgment dated 01.02.2010.

5. Thereafter, the instant revision petition was filed and the sentence of the petitioner was suspended vide order dated 27.04.2010.

6. The learned counsel for the petitioner contends that in parallel proceedings of recovery initiated by the respondent, the petitioner had paid the entire amount of the loan due towards him. Statements of both the parties were

2024:PHHC:145896



CRM-14561-2024 in/and CRR-965-2010 (O & M)

::3::

recorded on 08.03.2017 that respective cases would be withdrawn. An execution petition was also withdrawn. As the matter stood settled, an application was moved under Section 147 of the Negotiable Instruments Act for compounding of the offence and in view of the compromise, the offence could be compounded and the petitioner be acquitted of the charges framed against him.

7. The learned counsel for the respondent, on the other hand, while not disputing the factum of the statement of the counsel for the complainant being recorded in parallel proceedings before the Civil Court that a compromise had been arrived at, contends that as per another compromise, Rs.2,00,000/- still remain to be paid in view of the pendency of the instant petition. A hand written photocopy of a compromise has been shown to this Court. He, therefore, contends that the offence could not be compounded as no such compromise had been arrived at.

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

9. Admittedly, the petitioner was convicted by both the Courts and preferred the instant petition. However, during the pendency of this petition, in parallel civil proceedings, the following statement was made by the petitioner and one Mehar Singh:-

“Joint statement of Sukhdev Singh son of 5. Chanan Singh and Mehar Singh son of Gurbax Singh(JD/Respondents no.1 and 2) on SA with counsel Sh. Vishal Gogna adv.

I have entered into compromise with all the DH/Applicant in the present execution and the compromise has been effected for a full and final amount of Rs.9,90,000/- in total and out of

2024:PHHC:145896



CRM-14561-2024 in/and CRR-965-2010 (O & M)

::4::

which we have already paid a Sum of Rs.4,50,000/- already in the present execution on different dates ie Rs.2,00,000/- on 28.11.2016, Rs.2,00,000/- on 23.1.2017, Rs.50,000/-on 8.2.2017. Today out of the remaining amount of Rs.5,40,000/- today we have paid a demand draft bearing No. 023824 dated 23.2.2017 amounting to Rs.1,50,000/- drawn on Central Bank of India branch Gehri Mandi and now it has been settled that the remaining amount of Rs.3,90,000/- shall be paid by both of us to DH/Applicant within a period of four months from today in installments of Rs.1,00,000/- by 10.4.2017, Rs.1,00,000/- by 10.5.2017, and Rs.1,90,000/- by 10.7.2017 as per the compromise, DH/Applicant shall be bound to withdraw all the litigation filed by him against all the JD's /Respondents ie against both of us as well as against respondent no.3 and 4 also in any competent court of Law and we have heard the statement of DH/Applicant today in the court in the present execution and we are ready and willing to abide by the above said terms and conditions of the above said compromise and we shall remain bound by the same.”

Based on the aforesaid statement dated 08.03.2017, the following order dated 10.05.2017 was passed:-

“Sh. Vishal Sharma, Adv. counsel for DH suffered a statement that he had received a demand draft of Rs.1,00,000/- bearing No.005211 dated 27.4.2017 drawn on AXIS Bank issued in the name of Mahindra Hire Purchases on the behalf of DH as a part payment towards the compromise amount.

2024:PHHC:145896



CRM-14561-2024 in/and CRR-965-2010 (O & M)

::5::

Sh. Sukhdev Singh JD suffered a statement that he had handed over a demand draft of Rs.1,00,000/- bearing No.005211 dated 27.4.2017 drawn on AXIS Bank issued in the name of Mahindra Hire Purchases today as part payment towards the compromise amount. He undertook that he will further comply and make the remaining payment on 10.7.2017.

As per statements given by both the parties case stands adjourned to 10.7.2017 for making next installment.”

10. As the amount under the settlement had not been paid, an execution petition had been filed which came to be withdrawn after the entire amount as per the compromise deed dated 08.03.2017 had been paid. The copy of the said order dated 10.08.2017 is reproduced hereunder:-

“Sh. Vishal Sharma, Adv. has filed memo of appearance on behalf of DH stating that he has been telephonically instructed by DH to receive the payments and to withdraw the present execution. He vide separate statement received the total amount as per the compromise deed dated 8.3.2017 executed between the parties in the present execution and withdraw the present execution being fully satisfied. In view of statement suffered by Ld. counsel for DH/applicant, the present execution is dismissed as withdrawn. File be consigned to the record room.”

11. Apparently, in terms of the settlement arrived at between the parties as against the cheque amount of Rs.2,00,000/-, an amount of Rs.9,90,000/- has already been paid. It was in those circumstances that a settlement had been

2024:PHHC:145896



CRM-14561-2024 in/and CRR-965-2010 (O & M)

::6::

arrived at. The factum of a settlement had been admitted in collateral civil proceedings for recovery. However, an unexhibited photocopy of a hand written compromise has been shown to this Court which cannot be accepted as a genuine document in view of the categoric statement of the parties before the Court regarding a compromise having been arrived at.

12. In view of the aforementioned facts, the impugned judgments dated 01.02.2010 passed by the Additional Sessions Judge, Jalandhar and the judgment of conviction and order of sentence dated 27.11.2007 passed by the Judicial Magistrate Ist Class, Jalandhar, are set aside and the petitioner is acquitted of the charges framed against him.

(JASJIT SINGH BEDI)
JUDGE

November 08, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No