

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRR-1167-2019 (O&M)
Date of Decision : March 05, 2024

JASWINDER SINGH -PETITIONER

V/S

ASHWANI KUMAR ALIAS ASHU -RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. G.S. Rawat, Advocate
for the respondent.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant revision petition, the petitioner has assailed the verdict of conviction and consequent thereto order of sentence dated 19.08.2015, whereby, the learned Magistrate concerned has convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'N.I. Act'), and, sentenced him to undergo R.I. for six months along with fine of Rs.4,000/-.
2. In addition, the petitioner has also assailed the verdict dated 21.11.2016, whereby, the learned Additional Sessions Judge concerned has dismissed the statutory appeal filed by the petitioner against the verdict of conviction and order of sentence (supra). Moreover, since the petitioner was absent on the date of dismissal of his statutory appeal, a specific direction was also issued to the learned Magistrate concerned for taking the petitioner in custody through issuance of non bailable warrants

against him, for execution of sentence, as imposed upon him.

3. On 12.02.2024, when it came to knowledge of this Court that the petitioner has been avoiding the execution of sentence, as imposed upon him, this Court had directed the S.H.O. concerned to forthwith arrest the petitioner, and thereupon, to file a status report.

4. In compliance of the directions (supra), though the petitioner was arrested on 26.02.2024 and a status report dated 04.03.2024 was filed before this Court, however, in the meantime, an application under Section 147 of the N.I. Act has also been filed before this Court, by the learned counsel for the petitioner, thereby seeking compounding of offence under Section 138 of the N.I. Act, on the basis of Compromise dated 28.02.2024.

5. At this stage, Mr. G.S. Rawat, Advocate, who records his appearance on behalf of the respondent, under a validly executed Vakalatnama, instituted before this Court today, admits the factum of compromise *inter se* the parties. He further submits that, since the petitioner has discharged his liability, therefore, he has no objection in case he is acquitted from the charges framed against him.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The Hon'ble Supreme Court in ***Shakuntla Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63***, speaking through Justice V.R. Krishna Iyer, has held as under:-

“4.The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.....”

8. Be that as it may, keeping in view the fact that, the dispute has been amicably settled *inter se* the parties, inasmuch as, the petitioner has made the entire payment of the cheque amount along with interest to the respondent, and that, the offence in question is compoundable, and that, compounding can be allowed at any stage, this Court is constrained to allow the instant petition.

9. Consequently, the instant revision petition is **allowed**, and, the petitioner is **acquitted** of the charges/notice of accusation framed against him. The impugned verdict of conviction and order of sentence dated 19.08.2015, as passed by the learned Judicial Magistrate 1st Class, Ludhiana, is set aside. Moreover, the impugned verdict dated 21.11.2016, whereby, the learned Additional Sessions Judge, Ludhiana, had upheld the conviction of the petitioner, is also set aside.

10. The petitioner is directed to be released from custody, if not required in any other case. His bail bonds and surety bonds, if any, also stand discharged. However, since the petitioner has remained absent for a considerable period and kept fleeing from clutches of law, this Court burdens him with costs of Rs.20,000/- to be forthwith deposited in the District Legal Services Authority, Ludhiana.

11. All pending application(s) stand disposed of accordingly.

March 05, 2024
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(KULDEEP TIWARI)
JUDGE

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