

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

**Criminal Revision No. 3051 of 2012 (O&M)
Date of Decision: 06.02.2024**

Bhiwani Parshad

..... Petitioner

Versus

Jaspreet Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Davinder Kumar, Advocate for
Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Karan Bansal, Advocate for
Mr. Achin Gupta, Advocate
for the respondent.

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present revision petition, seeks setting aside of the order dated 24.09.2012 passed by the learned Additional Sessions Judge (Adhoc) Bathinda, whereby the appeal, filed against the order dated 08.11.2011 passed by learned Special Judicial Magistrate, Bathinda, convicting the petitioner under Section 138 of the Negotiable Instruments Act, 1881 (for short “NI Act”), was dismissed.

[2] Respondent–complainant (Jaspreet Singh) instituted a criminal complaint before the learned Special Judicial Magistrate First Class, Bathinda, wherein, an offence constituted under Section 138 of the Negotiable Instruments Act, 1881 (**hereinafter to be called “the Act”**), was alleged to be committed by the accused–Bhiwani Parshad (petitioner herein). After conclusion of trial upon complaint, learned trial Magistrate

concerned, convicted the accused-petitioner for an offence punishable under Section 138 of NI Act vide judgment of conviction and order of sentence dated 08.11.2011 passed by learned Special Judicial Magistrate, Bathinda and the appeal filed by him against that order as well as appeal filed by the complainant-Jaspreet Singh seeking enhancement of conviction of the petitioner, was also dismissed, vide judgment dated 24.09.2012 passed by the learned Additional Sessions Judge (Adhoc), Bathinda.

[3] Hence, the present revision petition.

[4] At the outset, learned counsel for the petitioner submits that the matter has been compromised between the parties and execution filed at the instance of complainant-Jaspreet Singh, titled “*Jaspreet Singh Versus Bhawani Parshad*” stands dismissed as withdrawn vide order dated 15.10.2022 passed by the learned Additional Civil Judge (Senior Division), Bathinda. Learned counsel, thus, prays for compounding the offence as well as setting aside the impugned judgment of conviction and order of sentence passed by the Courts below.

[5] Learned counsel for the respondent-complainant concedes the aforesaid factual position and submits that the respondent-complainant has no objection in case the present petition is accepted.

[6] It transpires that during the pendency of present revision petition, a settlement has been arrived at between the parties in view of the order dated 15.10.2022 passed in execution petition (filed at the instance of respondent-complainant) by the learned Additional Civil Judge (Sr. Division), Bathinda, which is re-capitulated as under:-

“ EXE-465-2017 Jaspreet Singh VS Bhawani Parshad

*Present: Sh BJS Ahluwalia, counsel for Decree Holder
Sh. NK Garg, counsel for Judgment Debtor*

Decree Holder Jaspreet Singh suffered statement that today with intervention of respectables of society, he has settled the execution no. 465-2017 titled as Jaspreet Singh vs Bhawani Parsad with Judgment Debtor Bhawani Parsad r/o Kheta Basti, Gali no. 1, Bathinda for sum of Rs. 1 lac as full and final payment towards entire satisfaction of the execution against civil suit no. 440 of 19.19.2012 decreed on dated 06.07.2017 and against the cheque complaint under Section 138 NI Act, in which Judgment Debtor /accused person Bhawani Parsad was convicted and appeal against such order is pending with Hon’ble High Court. He has received Rs. 1 lac in cash today in court. He withdraw the present execution as fully satisfied and have no objection in deciding the appeal of Judgment Debtor /accused by Hon’ble High Court in his favour accordingly.

In view of statement suffered by Decree Holder, present execution application is dismissed as withdrawn, being fully satisfied. File be consigned to the record room.

*Date of Order: 15.10.2022 (Mahesh Kumar Sharma)
Additional Civil Judge (Senior Division)
UID NO . PB0289”*

[6] The matter has been compromised between the parties. The entire settlement money, as agreed between the parties, has been paid by the petitioner-accused to the respondent-complainant.

[7] Thus once, the compromise has been arrived at between the parties without any pressure and respondent-complainant having no objection as regards setting aside of the impugned order herein; there does not appear to be any impediment as regards setting aside of the appellate

order dated 24.09.2012 *qua* the petitioner. Even otherwise, in order to maintain peace and harmony between the parties, particularly under the present circumstances wherein the alleged offences have no societal interest involved, it would be appropriate to render complete quietus to the aforementioned dispute by setting aside the impugned order(s) on the basis of compromise entered into between the parties.

[8] The parties having settled their dispute so as to live in peace in future, no useful purpose would be served by proceeding further with the criminal proceedings. In the light of above developments, no cause remains for this Court to invest further time and effort in adjudicating this petition. The compromise in question is even found to be fully in consonance with the directions issued by the Full Bench of this Court in ***Kulwinder Singh & Ors. Vs. State of Punjab 2007(3) RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543.***

[9] My aforesaid view is mainly dervied from the proposition of law laid down by the Hon'ble Supreme Court in case of ***“Ram Gopal Versus State of Madya Pradesh, 2021(4) RCR (Criminal) 322.*** Relevant para Nos. 18 & 19 thereof are reproduced hereunder:-

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution

embraces this Court with scopius powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the over-arching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

[10] Applying the aforesaid proposition to the facts and circumstances of the present case, the petitioner having settled the dispute with the complainant, the offence committed by the petitioner thus, stands compounded.

[11] Thus, in view of the aforesaid facts, accompanied by statements of both the parties as well as keeping in mind the law laid down in the aforementioned judgments, the petition is **allowed** and the

judgment of conviction and order of sentence (supra) passed by the Courts below are hereby set aside. The petitioner is hereby acquitted in the meaning of Section 320 (8) Cr.P.C.

[12] Pending miscellaneous application(s), if any, shall also stand disposed off.

February 06, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No