



CRR-1280-2023 (O&M)

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(127+236)

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

CRR-1280-2023 (O&M)

Date of Decision: 17.05.2024

SANJAY

... Petitioner

Versus

YOGESH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. S.K. Sirsa, Advocate
for the petitioner.

Mr. Nitin Sharma, Advocate for
Mr. Karan Singh, Advocate
for the respondent.

JASJIT SINGH BEDI, J (Oral)

CRM-21986-2024

The present application has been filed by the applicant-petitioner
for recalling of the order dated 29.04.2024 passed by this Court.

For the reasons mentioned in the application, the same is
allowed and the order dated 29.04.2024 is recalled and restored to its original
number.

CRM-22121-2023

This is an application filed under Section 482 Cr.P.C. read with
Section 147 of the NI Act for compounding of the offence in view of the fact
that the matter has been compromised between the parties.

Allowed as prayed for subject to all just exceptions.



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The present revision petition has been filed against the judgment dated 26.04.2023 passed by the Additional Sessions Judge, Gurugram, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 01.10.2019 passed by the Judicial Magistrate, 1st Class, Gurugram, has been dismissed.

2. The brief facts of the case are that in discharge of his legal liability, the petitioner/accused issued a cheque bearing No.142075 for an amount of Rs.1,40,000/- in favour of the complainant which came to be dishonoured. Pursuant thereto, the accused came to be summoned under the provisions of the 138 of the Negotiable Instruments Act, 1881 vide order dated 04.05.2023 passed by the JMJC, Hisar.

3. The evidence was led and ultimately, the accused was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo simple imprisonment for a period of 06 months. The accused was also ordered to pay an amount of Rs.1.40 lacs as compensation to the complainant.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused preferred an appeal before the Additional Sessions Judge, Gurugram, which came to be dismissed on 26.04.2023.

5. Still aggrieved, the present revision petition has been preferred by the accused. During the pendency of the present criminal revision petition, a compromise has been arrived at between the parties on 02.08.2023



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(Annexures P-1, P-1A and P-2 in CRM-22119-2023). It would be relevant to mention here that a combined reading of Section 147 of the Negotiable Instruments Act alongwith Section 320 Cr.P.C. would establish that where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for the complainant has accepted the factum of the compromise and has stated that he has no objection if the petitioner is acquitted of the charges framed against him.

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

8. 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



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acquittal of the accused with whom the offence has been compounded.”

9. 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.

10. The admitted position is that the matter stands settled and the compromise/settlement between the parties dated 02.08.2023 (Annexures P-1, P-1A and P-2 in CRM-22119-2023) is already on record. In addition Rs.21,000/- which is 15% of the cheque amount stands deposited with the DLSA, Gurgaon. The copy of the said receipt is marked as X.

11. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

12. Accordingly, the revision petition is allowed and the judgment dated 26.04.2023 passed by the Additional Sessions Judge, Gurugram and the judgment of conviction and order of sentence dated 01.10.2019 passed by the Judicial Magistrate, 1st Class, Gurugram are hereby set aside. The petitioner is acquitted of the charges under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

17.05.2024
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No