

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1051-2024 (O&M)

Reserved on: 18.07.2024

Date of Pronouncement: 29.07.2024

Abhay Singh
... Petitioner(s)
Versus
State of Haryana & another
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Varun Gupta, Advocatefor the petitioner(s).
Mr. Aashish Bishnoi, DAG, Haryana.
Mr. Nakul Sharma, Advocate for respondent no.2.

ANOOP CHITKARA, J.

Criminal Complaint	NACT-965/2019 under Section 138 of the Negotiable Instruments Act, District Narnaul. Decided on: 19.1.2024
Criminal Appeal/CIS	No. 38 of 15.2.2024, Additional Sessions Judge, District Narnaul. CNR No.HRNR01-000728-2024 Decided on: 14.5.2024

1. The petitioner, who stands convicted and sentenced for one year and to pay compensation to the tune of Rs.1,50,000/- by the trial court, for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (NIA), after dismissal of his appeal by the Sessions Court, has come up before this Court under Section 401, Code of Criminal Procedure, (CrPC) for setting aside the judgment of conviction.
2. The petitioner faced criminal prosecution by the private respondent because of the dishonor of the cheque in question. Thus, the opposition of the State’s counsel to this compromise is formal.
3. However, during the course of arguments on 23.5.2024, counsel for the petitioner had furnished statement of his bank account showing that the entire

compensation amount has been deposited and the petitioner has paid Rs.1,67,000/- though the cheque amount was Rs.1,50,000/-. To this counsel for respondent no.2- Shriram Finance Co. Ltd. submits that the bank has no objection if this Court allows the present petition and set aside the judgment of conviction and order of sentence and further submits that payment of entire cheque amount has been made.

4. Accordingly, this Court vide order dated 23.5.2024 granted bail subject to certain conditions including that deposit of 15% of the cheque amount i.e. Rs.22,500/- to the concerned authority as per the judicial pronouncement in Damodar S. Prabhu v Sayed Babalal, (2010) 5 SCC 663.

5. Counsel for the petitioner has produced a photocopy of receipt no.0002312 dated 11.7.2024 issued by Haryana State Legal Services Authority in Court towards deposit of Rs.22,500/-, which is taken on record.

6. The jurisprudence behind the Negotiable Instruments Act, 1881 is that the business transactions are to be honoured. The legislative intention is not to make people suffer incarceration only because their cheques bounced. These proceedings are to recover the cheque amount by showing teeth of a penal clause. Now, as per the above-mentioned report, the parties have settled their disputes and have compromised the matter.

7. It would be relevant to refer to the judicial precedents in Damodar S. Prabhu v Sayed Babalal, (*supra*), where based on the compromise, the convictions were set aside:

[17]. "...Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance."

8. The present matter relates to an economic offence and the penal teeth are with an end object of recovery of legally enforceable debt or admitted liability.

9. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

10. This Court has inherent powers under Section 482 read with 401 of the Code of Criminal Procedure to interfere in this kind of matter. In the entirety of the facts and circumstances of the case and judicial precedents, I am of the considered opinion that Considering the fact that the entire cheque amount has been paid back and 15% of the cheque amount has also been deposited in view of the judgment of Hon'ble Supreme Court of India in **Damodar S. Prabhu v Sayed Babalal**, (*supra*), continuation of these proceedings will not serve any fruitful purpose whatsoever. Given above, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the CrPC supported by Section 147 of the NIA is invoked to disrupt the prosecution and quash the proceedings mentioned above. Accordingly, the judgment of conviction, order of sentence and all the proceedings arising out of the complaint, captioned above, are set aside.

Petition allowed in the terms mentioned above. All pending applications, if any, stand closed.

(ANOOP CHITKARA)
JUDGE

July 29, 2024
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No