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2024-PHHC-075463



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CRR-1092-2024 (O&M)

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

CRR-1092-2024 (O&M)
Date of decision: 27.05.2024

Jatinder Kumar Manocha

....Petitioner.

Versus

Vivek Joshi and another

....Respondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Piyush Sharma, Advocate,
for the petitioner.

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SANJIV BERRY, J. (ORAL)

Instant petition has been preferred against the judgment dated 09.05.2024 passed by the Court of learned Judge, Special Court-cum-Additional District and Sessions Judge-cum-Fast Track Court, Ferozepur, whereby the criminal appeal, titled as '*Jatinder Kumar Manocha vs Vivek Joshi*' bearing number CIS No. CRA/96/2023 preferred by the petitioner against the judgment dated 04.03.2023 passed by learned Judicial Magistrate Ist Class, Ferozepur, had been dismissed by upholding the judgment of conviction and order of sentence for offence under Section 138 of the Negotiable Instruments



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Act, 1881, (for short ‘the N.I. Act’). The petitioner was convicted and sentenced as under: -

Offence	Imprisonment	Fine/compensation
138 of N.I. Act	RI for 02 years	Rs. 9.00 lacs (cheque amount payable to the complainant as compensation).

2. Notice of motion.
3. Mr. J.S. Ghumman, Advocate, has entered appearance on behalf of respondent No. 1; accepted notice and filed his vakalanatnama. The same is taken on record. Mr. Eklavya Darshi, DAG, Punjab, has accepted notice on behalf of respondent No. 2.
4. Learned counsel for the petitioner has also preferred an application, i.e. CRM-23608-2024, under Section 320 Cr. PC read with Section 482 Cr. PC to allow the petitioner and respondent No. 1 to compound the offence under Section 138 of the Negotiable Instruments Act, 1881 Act in view of amicable settlement arrived at between the petitioner and respondent No. 1. Another application, i.e. CRM-23609-2024, has been moved seeking suspension of remaining sentence of imprisonment of the petitioner.
5. Learned counsel for the petitioner has submitted that after passing of the impugned judgment dated 09.05.2024 (*supra*) there had been a settlement between the petitioner and respondent No. 1 vide affidavit/agreement dated 22.05.2024 (Annexure A-1) and prays that on

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the basis thereof, the aforesaid petition be allowed and the complaint along with all subsequent proceedings may be quashed.

6. Learned counsel appearing on behalf of respondent No. 1 has admitted the factum of compromise and the complainant having received the amount as mentioned in Annexure A-1 towards full and final settlement of the amount in question in the instant complaint in which, the petitioner had been held guilty and convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881. He has categorically stated at the Bar that the complainant-respondent No. 1 has no objection in case the instant petition is allowed by permitting the compounding of offence and as a result the order dated 04.03.2023 passed in complaint No. NACT 1194/2019 titled '*Vivek Joshi vs. Jatinder Kumar Manocha*' by the learned Judicial Magistrate Ist Class, Ferozepur, be also quashed along with all subsequent proceedings thereto.

7. The learned State counsel has not raised any objection to the same and has submitted that the dispute is *inter se* petitioner and respondent No. 1.

8. Considering the rival contentions and also the fact that parties have effected compromise on 22.05.2024 vide Annexure A-1, on the basis thereof, respondent No. 1-complainant has already received the amount in question towards full and final settlement of his

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claim thereof, and has specifically pleaded no objection in case the aforesaid, complaint under Section 138 of the Negotiable Instruments Act 1881 with all subsequent proceedings are quashed and the petitioner acquitted therein.

9. Keeping in view all the circumstances and in the interest of justice, the requisite permission is granted to the petitioner and respondent No. 1-complainant, to compound the offence under Section 138 of the Negotiable Instruments Act, 1881 and as a consequence thereto, the instant application bearing CRM No. 23608 of 2024 stands allowed. Consequently, the impugned judgment dated 09.05.2024 passed by learned Judge, Special Court-cum-Additional Sessions Judge-cum-Fast Track Court, Ferozepur, dismissing the appeal preferred by the petitioner, i.e. criminal appeal titled as '*Jatinder Kumar Manocha vs Vivek Joshi*' bearing number CIS No. CRA/96/2023 against the judgment dated 04.03.2023 passed by learned Judicial Magistrate Ist Class, Ferozepur, in complaint No. NACT-1194/2019 titled '*Vivek Joshi vs. Jatinder Kumar Manocha*' under Section 138 of the Negotiable Instruments Act, 1881, is hereby set aside and the petitioner stands acquitted therein.

10. The petitioner who is in custody is ordered to be released forthwith by the jail authorities, if not required in any other case.



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11. The application for suspension of sentence moved by the petitioner vide CRM-23609-2024 stands disposed of having been rendered infructuous.

12. Petition stands disposed of accordingly.

(SANJIV BERRY)
JUDGE

27.05.2024
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |