

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

**CRM-M-30234-2022**

**Date of Decision:-16.01.2024**

**Ashraf Khan.**

.....Petitioner.

Versus

**Jaswant Goyal.**

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Mohammad Arshad, Advocate for the Petitioner.

Mr. Vinay Kumar Pandey, Advocate for the respondent.

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**JASJIT SINGH BEDI, J.(ORAL)**

The Prayer in this petition under Section 482 Cr.PC is for seeking the issuance of directions by this Court for permitting the petitioner to deposit a sum of Rs.2,00,000/- towards the payment of the cheque which had been dishonoured entailing proceedings under Section 138 of the Negotiable Instruments Act, 1881 and the consequential conviction so that a compromise can be arrived at leading to the compounding of the offence.

2. The brief facts of the case are that the cheque for an amount of Rs.2,00,000/- (rupees two lacs) issued by the petitioner came to be dishonoured. A complaint date 18.02.2014/19.04.2016 was filed in which the petitioner came to be summoned and was subsequently convicted by the court of Sub Divisional Judicial Magistrate, Ferozpur Jhirka and sentenced to undergo RI for a period of 01 year and to pay a fine of Rs.2,00,000/- vide

judgment dated 4.12.2018/05.12.2018.

3. The petitioner preferred an appeal against the judgment dated 04.12.2018/05.12.2018 wherein he made an offer to make the payment of the cheque amount. However, the Appellate Court directed the parties to appear before the Mediation and Conciliation Centre of the court. As the hearing in the appeal was going on despite the undertaking of the petitioner, the present petition had been filed seeking directions of this Court permitting the deposit of Rs.2,00,000/- and consequential compounding.

4. The Counsel for the petitioner contends that as against the cheque amount of Rs. 2 lacs a sum of Rs.3,50,000/- stands paid to the respondent/complainant and, therefore, the offence may be compounded.

5. The Counsel for the respondent/complainant accepts the fact and states that the complainant has received a sum of Rs,3,50,000/- and has no objection if the offence is compounded.

6. I have heard the counsel for the parties.

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

8. 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.

9. The admitted position is that the matter stands settled on the basis of an oral compromise/settlement between the parties.

10. 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.

11. In view of the above the judgment of conviction dated 4.12.2018/05.12.2018 passed by Sub Divisional Judicial Magistrate, Ferozepur Jhirka is hereby set aside and the petitioner is acquitted of the notice served upon him under Section 138 of the Negotiable Instruments Act, 1881.

Petition stands disposed of.

( JASJIT SINGH BEDI )  
JUDGE

January 16, 2024  
Vinay

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |