

CRR-3913-2018 (O & M)
Date of decision: 29.01.2024

...PETITIONER

V/S

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kanishk Sarup, Advocate
for the applicant/petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Eeshan Garg, Advocate for
Mr. Pranshul Dhull, Advocate
for respondent No.2.

HARPREET SINGH BRAR J. (ORAL)

**CRM-52350-2023, CRM-52352-2023 &
CRM-52353-2023**

Learned counsel for the applicant/petitioner wishes to withdraw the applications as the main case is listed for today.

Applications stand dismissed as withdrawn.

MAIN CASE

This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of impugned judgment dated 12.10.2018 passed by Sessions Judge, Bhiwani, whereby the appeal filed by the petitioner against the judgment of conviction dated 27.02.2018 and order of sentence dated 28.02.2018 in a case filed under Section 138 of Negotiable Instruments Act has been upheld in view of the compromise effected between the parties.

2. Learned counsel for the petitioner contends that respondent No.2

has instituted 04 complaints under the Negotiable Instruments Act against the petitioner. The petitioner and respondent No.2 have effected a compromise and on the basis of the compromise except the present case, the other three cases have already been compounded and the petitioner has been acquitted.

3. The following order was passed on 14.12.2018:

“The learned counsel for the petitioner has submitted that the matter has since been compromised amongst the parties.

Notice of motion for 31.1.2019.

At this stage, Sh. Paras Sharma, Advocate has put in appearance on behalf of the complainant and has filed Vakalatnama, which is taken on record, and has also acknowledged the said fact that the parties have now reached at a compromise.

The learned counsel for the petitioner has, however, stated that since the petitioner is in the category of ‘Below Poverty Line’ and is unable to deposit any additional amount and that infact the compromise has also been effected for an amount much lesser than the cheque amount, therefore, the petitioner be exempted from depositing any additional amount as mandated by Hon’ble the Supreme Court in 2010(2) R.C.R. (Criminal) 851 Damodar S. Prabhu Versus Sayed Babalal.

In view of the aforesaid position, the parties are directed to appear before the trial Court on 8.1.2019 so as to get their statements recorded qua the factum of compromise. The petitioner would also be at liberty to adduce evidence as regards his financial status including the assertion that the petitioner is in the category of ‘Below Poverty Line’.

The trial Court after recording the statements shall submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties and also as regards the assertion of the petitioner that he is in the category of ‘Below Poverty Line’.

In the meantime, the substantive sentence of imprisonment as imposed upon the petitioner shall remain stayed subject to his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.”

4. In compliance of the above order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

5. In view of the compromise and the ratio of law laid down by the Hon’ble Supreme Court in *Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834* and *Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63* and Full Bench of this Court in *Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052*, this petition is allowed and impugned judgment of conviction and order of sentence dated 27.02.2018 passed by the Judicial Magistrate Ist Class, Bhiwani along with impugned judgment and order passed by the learned Sessions Judge, Bhiwani dated 12.10.2018 are set aside and all subsequent proceedings arising out of the same are quashed, qua the petitioner.

January 29, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |