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

**CRM-26386-2024 in/and
CRR-1208-2024 (O&M)
Date of Decision: August 12, 2024**

M/S MAMTA ELECTRICALS AND ANOTHER

....Petitioner(s)

VERSUS

M/S M.L. ELECTRICALS COMPANY

....Respondent(s)

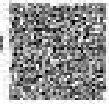
CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Manish Soni, Advocate
for the petitioners.

Mr. Manoj Kumar Sood, Advocate
for the respondent/complainant.

SANDEEP MOUDGIL, J.(ORAL)

This is a petition for setting aside the judgment dated 23.05.2024 passed by learned Addl. Sessions Judge, Faridabad, whereby criminal appeal filed by the petitioner against the order of conviction has been dismissed as well as impugned judgment and order of sentence dated 27/30.03.2019 passed learned Judicial Magistrate 1st Class, Faridabad, whereby the petitioner has been convicted and sentenced to pay compensation to the tune of Rs.13,00,000/- to the complainant under Section 357(3) Cr.P.C. and to undergo simple imprisonment for a period of nine months for commission of offence punishable under Section 138 of NI Act.



Before proceeding further, it would be apposite to reproduce the last order, which reads as under:-

“CRM No.26385 of 2024

Prayer in this application is for placing on record copy of compromise dated 02.07.2024 (Annexure P-5) and exemption from filing certified/true typed copy of the same. In view of the averments made in the application, the same is allowed subject to all just exceptions. Annexure P-5 is taken on record.

CRM No.25443 of 2024

Prayer in this application filed under Section 397 Cr.P.C. is for suspension of sentence of the applicant-petitioner during the pendency of the present Criminal Revision Petition.

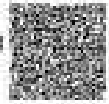
Vide judgment of conviction and order of sentence dated 30.03.2019 passed by the Judicial Magistrate Ist Class, Faridabad, applicant Om Parkash (petitioner) was held guilty, convicted and sentenced to undergo rigorous imprisonment for a period of nine months and to pay an amount of Rs.13,00,000/- to the complainant as compensation for commission of offence punishable under Section 143(1) (proviso) of Negotiable Instruments Act read with Section 357(1) (3) of the Code of Criminal Procedure and the appeal preferred by the applicant/petitioner against the judgment of conviction and order of sentence was dismissed by Additional Sessions Judge, Faridabad, vide judgment dated 23.05.2024.

Learned counsel for the applicant-petitioner submits that the petitioner has entered into a compromise with the complainant after having paid the entire amount.

Notice in the application.

Mr. Manoj Kumar Sood, Advocate, puts in appearance and filed Power of Attorney on behalf of the respondent/complainant, who does not controvert the aforesaid fact.

In view of the above, since the petitioner has entered into a compromise with the complainant after having paid the entire amount and the said fact has not been controverted by the



counsel appearing for the respondent/complainant, there is no use of keeping the applicant-petitioner behind the bars for further period. As such, the application seeking suspension of sentence of the applicant-petitioner (Om Parkash) is allowed and his sentence shall remain suspended during the pendency of the Criminal Revision Petition subject to his furnishing personal/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Faridabad. Application stands disposed off.

CRM No.26386 of 2024

Prayer in this application filed under Section 147 of Negotiable Instruments Act, 1881 read with Section 482 Cr.P.C. is for compounding the offences punishable under Section 138 of the Negotiable Instruments Act as petitioner and complainant have entered into compromise vide compromise/settlement dated 11.06.2024 (Annexure P-5) and to dissolve the conviction of the petitioner.

Notice in the application.

Mr. Manoj Kumar Sood, Advocate, accepts notice on behalf of the respondent and admits the factum of compromise entered into between the parties. Since the application is for compounding of offence on the basis of compromise which was arrived at between the parties vide compromise/settlement dated 11.06.2024, the parties are directed to appear before the Trial Court within a period of two weeks from today, for recording of their statements with regard to genuineness of the compromise. The Trial Court is directed to submit its report on or before the next date of hearing.

CRR No.1208 of 2024

For awaiting report, to come up on 12.08.2024. ”

In the light of the fact that parties have settled their dispute amicably and demand draft No.570642 amount to Rs.11,00,000/- had been handed over to the complainant, thus do not want to pursue the present case.



Vide order dated 05.07.2024, parties were directed to appear before the Illaqa Magistrate/Trial Court and report with regard to the genuineness of the compromise was called for.

The report dated 19.07.2024 has been received from learned Judicial Magistrate 1st Class, Faridabad, stating that the parties have entered into a compromise, which is genuine, voluntary and without any coercion or undue influence.

Learned counsel for the respondent/complainant admits the factum of compromise entered into between the parties.

Full Bench of this Court in *Kulwinder Singh and others vs. State of Punjab*, 2007 (3) RCR (Criminal) 1052, has held:-

“The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in noncompoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role



of paramount importance in achieving peace, harmony and ever- lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

The legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of 'Gian Singh Versus State of Punjab and another,(2012) 10 SCC 303'. Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of 'Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another” (2017) 9 SCC 641'.

It is evident that in view of the amicable resolution of the issues amongst the parties, no useful purpose would be served by continuation of the proceedings. The furtherance of the proceedings is likely to be a waste of judicial time and there appears to be no chances of conviction.

In view of above, the offence is compounded.

The present petition is disposed of.

(SANDEEP MOUDGIL)
JUDGE

12.08.2024
Sangeeta

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No