



CRR-1479-2024 (O&M)

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

CRR1479-2024 (O&M)

Date of Decision: August 09, 2024

Jasbir Singh

.....Petitioner

Versus

Ramesh Beniwal

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Viranjeet Singh Mahal, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

CRM-31802-2024

Instant application has been filed praying for condonation of delay of 707 days in filing the present revision petition.

For the reasons mentioned in the application, the same is allowed. Delay of 707 days in filing the present revision petition is condoned.

CRM-31803-2024

Application is allowed as prayed for,

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1 Instant petition has been filed impugning the order dated 16.05.2022, passed by learned Additional Sessions Judge, Panipat, dismissing the appeal filed by the petitioner against orders dated

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Panipat, vide which the petitioner was convicted and sentenced for one year and six months under Section 138 of the Negotiable Instruments Act (for brevity, 'the Act'), and to pay Rs.6,75,000/- under Section 357(3) Cr.P.C. as compensation to the complainant.

2. It has been submitted by learned counsel for the petitioner that petitioner was convicted under Section 138 of the Act and sentenced to undergo RI for a period of one year and six months and further to pay Rs.6,75,000/- under Section 357(3) Cr.P.C. as compensation to the complainant and the same was affirmed by learned Appellate Court vide order dated 16.05.2022. However, now both the parties have amicably resolved their inter se dispute and the amount has been paid to the complainant. He prays for compounding the offence and setting aside the orders dated 16.05.2022 passed by learned Additional Sessions Judge, Panipat and orders dated 26.02.2020/27.02.2020 passed by JMIC, Panipat.

3. Notice of motion.

4. Mr.Vishesh Bhatia, Advocate, accepts notice on behalf of the respondent and has affirmed the submissions made by learned counsel for the petitioner. He has further submitted that the agreed amount by way of compromise has been paid by the petitioner and he has no objection if the orders dated 26.02.2020/27.02.2020 and 16.05.2022 are quashed.

5. The case as enumerated from the facts and circumstances is that a complaint under Section 138 of the Act was filed against the petitioner by the respondent on the allegations that the petitioner borrowed Rs.4,50,000/- from the respondent-complainant as a friendly loan. The petitioner in



discharge of his liability to pay loan issued cheque bearing No.007113, dated 16.04.2013 for an amount of Rs.4,50,000/-, however, on presentation of the same, the said cheque was dishonoured with remarks 'funds insufficient'. Thereafter, the respondent-complainant sent a legal notice of demand, dated 22.05.2013 to the petitioner for making the payment of cheque amount but despite that the petitioner failed to make payment and thus, the complaint was filed.

6. On conclusion of trial, the petitioner was convicted and sentenced under Section 138 of the Act to undergo rigorous imprisonment for a period of one year and six months. The petitioner was also burdened with compensation of Rs.6,75,000/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned JMIC, Panipat, the petitioner assailed the same by way of filing an appeal before the learned Appellate Court. Learned Appellate Court, finding no merit in the appeal, dismissed the same by upholding the conviction and sentence of the petitioner. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

7. Learned counsel for the petitioner has fairly submitted that after dismissal of the appeal, the matter has been compromised and the amount, as agreed in the compromise, has also been paid by the petitioner to the complainant and now nothing is due against them. He has further submitted that once the parties have settled the dispute amicably, then in view of the law settled, the petitioner be allowed to compound the offence and he be acquitted of the charge under Section 138 of Act. He has placed reliance on



the law laid down by Hon'ble Supreme Court in **Raj Reddy Kallem vs. The State of Haryana and another**, Law Finder Doc Id# 2557645, wherein, it has been held that there is no bar to seek the compounding of the offence at later stage of criminal proceedings including after conviction.

8. Learned counsel for the respondent has affirmed the contentions raised by learned counsel for the petitioner and has submitted that respondent-complainant has received the settled amount as per the compromise and he has no objection, if the present petition is allowed.

9. As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioner, who has already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent-complainant. In **Raj Reddy Kallem's** case (supra), it has been held that the accused must try for compounding of the offence at the initial stages instead of later stages, however, there is no bar to seek the compounding of offence at later stage of criminal proceedings including after conviction.

10. So keeping in view above facts and the law settled by Hon'ble Supreme Court, the petitioner is allowed to compound the offence and he is ordered to be acquitted of the charges framed against him. As a consequences, the order dated 16.05.2022 passed by learned Additional Sessions Judge, Panipat, and order dated 26.02.2020/27.02.2020 passed by JMIC, Panipat, convicting and sentencing the petitioner under Section 138 of the Act, are set aside.

11. While taking into consideration the observations made by

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Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (CrI.) 851**, the present revision petition is allowed subject to payment of costs of Rs.67,500/- (being 15% of the cheque amount of Rs.4,50,000/-) to the complainant within a period of two months from today.

12. Petitioner is directed to file receipt of abovesaid amount of Rs.67,500/- in the office/Registry of this Court within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within three months from today, the order, dated 16.05.2022, passed by learned Additional Sessions Judge, Panipat, dismissing the appeal filed by the petitioner as well as orders dated 26.02.2020/27.02.2020 passed by learned Judicial Magistrate Ist Class, Panipat, would become operational and the present petition would be deemed to have been dismissed.

13. Petitioner, if in custody, be set at liberty forthwith, if not required in any other case.

August 09, 2024

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**(RAJESH BHARDWAJ)
JUDGE****1. Whether speaking/reasoned ?****Yes/No****2. Whether reportable ?****Yes/No**