IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

254 **CRR-1925-2022 (O&M)**
Date of Decision: 25.04.2024

Ransher Singh ...Petitioner

Vs.

The Bathinda Central CO-OP Bank Ltd. ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Dhanpat Rai Singh, Advocate for the petitioner.

Mr. Naginder Singh Vashisht, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The present revision petition has been preferred against the judgment and order dated 20.08.2018 passed by the Judicial Magistrate 1st Class, Talwandi Sabo and the judgment dated 18.03.2019 passed the Additional Sessions Judge, Bathinda, whereby, the petitioner has been convicted for the offence punishable under Section under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') and sentenced to undergo rigorous imprisonment for a period of one year and also to pay a fine of Rs. 5,000/- alongwith default stipulation.

2. During the pendency of the present petition, the petitioner moved a CRM 12322 of 2023 under Section 147 of the Act

AMIT RANA
2024.05.01 11:02
I attest to the accuracy and authenticity of this order/judgment
Chandigarh

read with Section 482 Cr.P.C. with a prayer to compound the offences. Learned counsel for the petitioner contends that the petitioner had deposited an amount of Rs. 4,06,000/- with the respondent-bank on 22.09.2022. He further contends that the petitioner has amicably resolved the dispute with the bank and the entire payment has been made to the bank and, thus, the petitioner may be allowed to compound the offence with the respondent and the petitioner may be ordered to be acquitted.

3. On the other hand, learned counsel for the respondent on instructions from Rajiv Kumar Sharma, Assistant Manager, Central Cooperative Bank, Head Quarter Bathinda, who is present in the Court submits that the petitoiner has already made payment to the bank and the respondent/complainant bank has no objection if the offence is ordered to be compounded by this Court and the petitioner is ordered to be acquitted by this Court.

4. Learned counsel for the petitioner by relying upon **Cochin Hotels Co.(P) Ltd. and others Vs. Kairali Granites and others, 2006(2) RCR (Criminal) 333 and K. Subramanian Vs. R. Rajathi represented by POAP Kaliappan, 2010 (1) RCR (Criminal) 184** contended that even after finalization of judgment of conviction and order of sentence, petitioner can resort to compounding mechanism in terms of Section 147 of Negotiable Instruments Act as the offence related to dishonouring of cheque is having compensatory profile and it should be given precedence over

AMIT RANA
2024.05.01 11:02
I attest to the accuracy and
authenticity of this order/judgment
Chandigarh

punitive mechanism. Offence is almost a civil wrong which has been clothed in a criminal overtone, therefore, the priority should be given to compensatory mechanism

5. Learned counsel also relied upon **Damodar S. Prabhu vs. Sayed Babalal H.(supra) Kaushalya Devi Massand vs. Roopkishore, 2011(2) RCR (Criminal) 298** and contended that the compromise in question would definitely go in long way to strengthen the mutual relationship between the parties and would serve as an ever lasting tool in their favour. This exercise would be in consonance with the spirit of Section 147 of the Negotiable Instruments Act as endorsed in **Damodar S. Prabhu's case (supra)**

6. For the reasons recorded hereinabove, I deem it appropriate to dispose of the present revision petition in terms of compromise consequently the impugned orders are set aside.

7. So far as 15% of the cheque amount in terms of ratio of **Damodar S. Prabhu's case (supra)** is concerned, I am of the view that Section 147 of the Negotiable Instruments Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in stricto sensu, therefore, Hon’ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also

AMIT RANA
2024.05.01 11:02
I attest to the accuracy and
authenticity of this order/judgment
Chandigarh

involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court.

8. In view of the fact that the parties have resolved their differences and have compromised the matter and also the fact that the petitioner is a poor person, I am of the view that 15% of the cheque amount towards cost(s) of litigation can be waived off in the interest of justice.

9. In view of the above discussion, the impugned judgments/order(s) are set aside and the parties are allowed to compound the offence in terms of Section 147 of the Act and petitioner is ordered to be acquitted of the charge.

10. All pending applications, if any, are disposed off, accordingly.

25.04.2024 **(N.S.SHEKHAWAT)**
amit rana **JUDGE**

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

AMIT RANA
2024.05.01 11:02
I attest to the accuracy and
authenticity of this order/judgment
Chandigarh