

**CRR-1519-2024(O&M)****-1-****116****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1519-2024(O&M)****Date of Decision: August 14, 2024**

Yudhvir Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJPresent: Mr.Parmod Kumar, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)

1. Instant petition has been filed impugning the judgment and order dated 05/06.10.2023, passed by the learned Sub Divisional Judicial Magistrate, Tosham, whereby he was convicted under Section 138 of the Negotiable Instruments Act, 1881 (for brevity, 'the NI Act') and sentenced to undergo rigorous imprisonment for a period of one year alongwith compensation of Rs.2.5 lakhs. Appeal filed against the above-said orders has also been dismissed by learned Additional Sessions Judge, Bhiwani, vide order dated 20.07.2024.

2. It has been submitted by learned counsel for the petitioner that petitioner was convicted under Section 138 of the NI Act and sentenced to undergo RI for a period of one year and further to pay Rs.2,50,000/- as compensation to the complainant and the same was affirmed by learned Appellate Court vide order dated 20.07.2024. However, now both the parties

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have amicably resolved their inter se dispute vide compromise, dated 04.08.2024, Annexure P-1, and the amount has been paid to the complainant. He prays for compounding the offence and setting aside the orders dated 05/06.10.2023 passed by learned Sub Divisional Judicial Magistrate, Tosham, and order dated 20.07.2024, passed by learned Additional Sessions Judge, Bhiwani.

3. Notice of motion.

4. On asking of the Court, Mr.Sumit Jain, Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of respondent No.1, whereas Ms.K.Madhuri, Advocate, accepts notice on behalf of respondent No.2 and has affirmed the submissions made by learned counsel for the petitioner. She has further submitted that the agreed amount by way of compromise has been paid by the petitioner and she has no objection if orders dated 05/06.10.2023 and 20.07.2024 are quashed.

5. The case, as enumerated from the facts and circumstances, is that a complaint under Section 138 of the NI Act was filed against the petitioner by the respondent on the allegations that the petitioner borrowed Rs.2,50,000/- from the respondent-complainant as he urgently required the said amount for some domestic purpose for a very short period of time, i.e. one month. The petitioner in discharge of his liability to pay loan issued cheque bearing No.030786, dated 15.09.2018 for an amount of Rs.2,50,000/-, however, on presentation of the same, the said cheque was dishonoured with remarks 'insufficient funds'. Thereafter, the respondent-complainant sent a legal notice of demand, dated 20.10.2018 to 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 NI Act to undergo rigorous imprisonment for a period of one year. The petitioner was also burdened with compensation of Rs.2,50,000/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned SDJM, Tosham, the petitioner assailed the same by way of filing an appeal before the learned Appellate Court. However, 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 him. 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 NI 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 a 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

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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 orders dated 05/06.10.2023 passed by learned SDJM Tosham, and order dated 20.07.2024 passed by learned Additional Sessions Judge, Bhiwani, convicting and sentencing the petitioner under Section 138 of the NI Act, are set aside.

11. While taking into consideration the observations made by Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851**, the present revision petition is allowed subject to payment of costs of Rs.37,500/- (being 15% of the cheque amount of Rs.2,50,000/-) to the complainant within a period of two months from today.

12. Petitioner is directed to file receipt of abovesaid amount of Rs.37,500/- in the office/Registry of this Court within aforesaid period. In

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from today, the orders dated 05/06.10.2023 passed by learned SDJM Tosham, and order dated 20.07.2024 passed by learned Additional Sessions Judge, Bhiwani, 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. Pending application, if any, also stands disposed of accordingly.

August 14, 2024

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