

2024:PHHC:165937



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

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CRR 1832 of 2024 (O&M)
Date of Decision: 19.09.2024

M/s Yes Farm Pvt. Ltd. and others	...Petitioners
Versus	
M/s Indian Overseas Bank	... Respondent

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

Present : Mr. S.S. Pathania, Advocate
for the petitioners (through V.C.).

N.S.SHEKHAWAT, J. (Oral)

1. The petitioners have filed the present revision petition against the impugned order dated 01.06.2024 passed by the Court of Additional Sessions Judge, Sonipat, whereby, a compounding fee of 5% of the cheque amount was imposed on the present petitioner.
2. Learned counsel for the petitioners contends that vide judgment and order dated 02.11.2021, the Court of Judicial Magistrate 1st Class, Sonapat had convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act 1881 and they were sentenced to undergo simple imprisonment for a period of 02 years and to pay an amount of Rs. 50,000/- as compensation.

3. During the pendency of the appeal before the Court of Additional Sessions Judge, the petitioner and the respondent entered into a compromise and a sum of Rs. 6.30 crores was paid as one time settlement amount to the respondent. Even, the permission to compound the offence was sought by the parties, which was granted by the appellate Court. However, while granting the permission, the compounding fee of 5% of the cheque amount was imposed on the petitioner/appellant. Challenging the imposition of compounding fee by the appellate Court, the petitioner has filed the present petition before this Court.

3. I have heard the learned counsel for the petitioner and perused the record.

4. In the matter of ***Damodar S. Prabhu Vs. Sayed Bablal H, 2010 (5) SCC 663***, the Hon'ble Supreme Court has permitted the compounding of the offence under Section 138 of the Act. The Hon'ble Supreme Court held that in case the application for compounding is made before the Sessions or a High Court in revision or appeal, such compounding may be allowed on the conditions that the accused pays 15% of the cheque amount by way of costs. It was also observed by the Hon'ble Supreme Court that even though the imposition of costs by the competent Court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The

competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. The bonafide litigants should of course contest the proceedings to their logical end.

5. Adverting to the facts of the present case, this Court has no hesitation to hold that the appellate Court has rightly imposed the compounding fee at the rate of 5% of the cheque amount. The appellate Court rightly held that the petitioner had not compromised the matter before the trial Court, therefore, there was no question of any bonafide intention of the present petitioner. Moreover, the petitioner had already paid a huge sum of Rs. 6.30 crores and there was no material on record to show that the petitioner was reeling under some financial crisis. It was further rightly held that waiving off entire compounding fee, as suggested by the Hon'ble Supreme Court would amount to giving premium to the petitioners for wasting the precious time of the Courts.

6. Even otherwise, even the Hon'ble Supreme Court has held that sufficient reasons must exist to waive off the compounding fee and the petitioners have failed to show any good reasons for reduction in the compounding fee.

7. Thus, finding no merits, the present petition is ordered to be dismissed.

8. All the pending applications also stand disposed off, accordingly.

19.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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