



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M No. 42672 of 2023 (O&M)  
Date of Decision: 28.05.2024

Raghubinder Singh @ Raghubind Singh  
@ Raghuvinder Singh and another

..... Petitioners

Versus

State of Haryana and another

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Manav Sachdeva, Advocate for  
Mr. Abhimanyu Singh, Advocate  
for the petitioners.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana  
for respondent No. 1.

Mr. Pankaj Kaushik, Advocate  
for respondent No. 2.

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**HARKESH MANUJA, J. (ORAL)**

The petitioners, by way of present petition, seek setting aside of the order dated 27.07.2023 passed by learned Sessions Judge, Kurukshetra, whereby their appeal under Section 374 Cr.P.C against the judgment of conviction dated 30.01.2018 and order of sentence dated 01.02.20218 passed by learned Judicial Magistrate Ist Class, Kurukshetra, stood dismissed, there by upholding the judgment of conviction and order of sentence passed therein.

[2] The petitioner-Raghubinder Singh was convicted in a criminal complaint No. 1274 of 2014, dated 10.11.2014/20.11.2017, titled “*Narain Dutt Versus M/s. Shiv Shakti Trading Company and another*”, under Sections 138 & 142 of the Negotiable Instruments Act, 1881 (for short “the

NI Act”), vide judgment dated 30.01.2018 and was sentenced vide order dated 01.02.2018 passed by learned Judicial Magistrate Ist Class, Kurukshetra, to undergo rigorous imprisonment for a period of one year and to pay compensation to the tune of Rs. 4,00,000/-, i.e. amount equal to the cheque in question to the complainant and in default thereof, to further undergo rigorous imprisonment for three months.

[3] Appeal preferred by the petitioners against the aforesaid judgment of conviction and order of sentence was also dismissed by the learned Sessions Judge, Kurukshetra on 27.07.2023. Hence, the present petition.

[4] At the outset, learned counsel for the petitioners submits that the matter has since been compromised and the settled amount of Rs.9,00,000/- (in total) has been paid to respondent No.2-complainant, hence, the continuation of proceedings against the petitioners would be a futile exercise and thus, not justified.

[5] Learned counsel for respondent No. 2, on instructions, does not dispute the aforesaid factual position and states that nothing remains due. He also submits that he has no objection in case the present petition is accepted on the basis of settlement arrived at between the parties.

[6] I have heard learned counsel for the parties and gone through the paper-book.

[7] A conjoint reading of Section 138 read with Section 147 of the NI Act, makes it clear that every offence punishable under the NI Act is compoundable. Section 147 of the aforesaid Act is reproduced hereunder for reference:-

***“147 Offences to be compoundable. —***

*Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.”*

[8] Applying the aforesaid proposition to the facts and circumstances of the present case, the petitioner having settled the dispute with respondent No. 2-complainant by making the entire payment, offence committed by the petitioners under Section 138 of the NI Act, thus, stand compounded.

[9] Furthermore, following the law laid down by the Hon'ble Supreme Court in case of ***“B.V. Seshaiiah Versus The State of Telangana & Anr., 2023(1)R.C.R. (Criminal) 831”***, the compounding of offence has to be followed by setting aside of conviction order passed by the Court below. Reference may be made to Paragraph Nos. 10-13 thereof, which are reproduced hereunder:-

*“10. In the case of M/s Meters and Instruments Private Limited & Anr. Vs. Kanchan Mehta, this Court held that the nature of offence under Section 138 of the N.I. Act is primarily related to a civil wrong and has been specifically made a compoundable offence. The relevant paragraph of the judgment has been extracted herein:*

*‘ This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers*

*a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable.’*

- 11. This is a very clear case of the parties entering into an agreement and compounding the offence to save themselves from the process of litigation. When such a step has been taken by the parties, and the law very clearly allows them to do the same, the High Court then cannot override such compounding and impose its will.*
- 12. It must also be noted that the respondent No.2 was duty-bound to file a compromise petition before the High Court, and by not doing the same has withdrawn key information from the High Court, which has led to an unwarranted confirmation of the Appellants’ conviction.*
- 13. We, therefore, allow these Appeals and set aside the order of conviction passed by the trial Court. It is, however, kept open to the parties to settle their dispute as per the terms of the Memorandum of Understanding.”*

[10] Thus, in view of the aforesaid facts as well as keeping in mind the law laid down in the aforementioned judgments, the petition is **allowed** and the judgment of conviction and order of sentence (supra) passed by the Courts below are hereby set aside. The petitioner is hereby acquitted in the meaning of Section 320 (8) Cr.P.C.

[11] Pending miscellaneous application(s), if any, shall also stand disposed off.

May 28, 2024

*'dk kamra'*

( HARKESH MANUJA )  
JUDGE

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|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |