

**CRR-1601-2024 (O&M)****-1-****110****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-1601-2024 (O&M)****Date of Decision: August 30, 2024**

Arun

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJPresent: Ms.Pinki Mehla, Advocate
for the petitioner.

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RAJESH BHARDWAJ, J.(ORAL)**CRM-34437-2024**

1. Instant application has been filed praying for condonation of delay of 643 days in filing the present revision petition.
2. It has been submitted by learned counsel for the applicant/petitioner that though the applicant/petitioner filed the appeal, however, he came to know about the decision of this case only when he was arrested by the police on 31.07.2024. It is submitted that now mother of the petitioner has effected compromise with respondent No.2/complainant and filed the present revision petition and in this way, there occurred a delay of 643 days in filing the present revision petition. It is submitted that in view of the compromise effected between the parties, delay of 643 days be condoned and offence of the petitioner may be compounded.
3. Notice of the application to the respondents.

**CRR-1601-2024 (O&M)****-2-**

4. On asking of the Court, Mr.Sumit Jain, Additional Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents/State whereas Mr.Nitin Kumar Sharma, Advocate accepts notice on behalf of respondent No.2. Learned counsel appearing for respondent No.2 affirms the factum of compromise and submits that he has no objection if application is allowed and offence is compounded.

5. After hearing learned counsel for the parties and going through the facts of the case, the present application is allowed. Delay of 643 days in filing the revision petition is condoned.

CRR-1601-2024(O&M)

1. Instant petition has been filed impugning the judgment and order, dated 24.08.2022, passed by learned Additional Sessions Judge, Kaithal, dismissing the appeal filed by the petitioner against order, dated 10.01.2019 passed by learned Judicial Magistrate Ist Class, Kaithal, vide which the petitioner was convicted and sentenced for simple imprisonment for a period of five months under Section 138 of the Negotiable Instruments Act (for brevity, 'the NI Act') and to pay compensation of Rs.3,00,000/- in terms of Section 357(3) Cr.P.C..

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 SI for a period of five months and further to pay compensation of Rs.3,00,000/- under Section 357(3) Cr.P.C. by learned Judicial Magistrate First Class, Kaithal, vide order dated 10.01.2019, and the same was affirmed by learned Appellate Court vide order, dated 24.08.2022. However, now

**CRR-1601-2024 (O&M)****-3-**

Panchayati compromise, dated 20.08.2024, and the cheque amount has been paid to the complainant. He prays for compounding the offence and setting aside the orders dated 24.08.2022 passed by learned Additional Sessions Judge, Kaithal, and order, dated 10.01.2019 passed by JMIC, Panipat.

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 the respondents/State whereas Mr.Nitin Kumar Sharma, Advocate accepts notice on behalf of respondent No.2. Learned counsel appearing for respondent No.2 affirms the factum of compromise and submits that he has no objection if revision petition is allowed, offence is compounded and orders, dated 24.08.2022 and 10.01.2019 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 respondent No.2 on the allegations that the accused sold his Swift Dzire car to complainant and received Rs.3,00,000/- from him as sale price of said car and also executed an affidavit regarding the same in his favour. The validity of the insurance of the said car was till 04.04.2016 and the accused assured the complainant to get the insurance renewed. It has been further alleged that on 06.04.2016, the accused took the said car alongwith its documents on the pretext that he would get the insurance renewed and would complete the formalities regarding transfer of documents in the name of complainant. However, when petitioner/accused did not turn up, the complainant convened Panchayat at the house of accused where he was told



consideration, i.e. Rs.3,00,000/- within few days. It also came to the notice of the complainant that car did not belong to the petitioner and he had sold it to him in order to cheat him. After repeated requests, the petitioner/accused issued cheque bearing No.748830, dated 17.05.2016, amounting to Rs.3,00,000/- in discharge of his liability, however, on presentation of the same, the said cheque was dishonoured with remarks 'funds insufficient'. Thereafter, respondent No.2/complainant sent a legal notice, dated 15.06.2016 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 NI Act to undergo simple imprisonment for a period of five months. The petitioner was also burdened with compensation of Rs.3,00,000/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned JMIC, Kaithal, 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 him. He has further submitted



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 respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that respondent No.2/complainant has received the cheque 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 No.2/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 24.08.2022 passed by learned Additional Sessions Judge, Kaithal, and order dated 10.01.2019 passed by JMIC, Kaithal, convicting and sentencing the petitioner under Section 138 of the NI

**CRR-1601-2024 (O&M)****-6-**

11. While taking into consideration the observations made by Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (Cr1.) 851**, the present revision petition is allowed subject to payment of costs of Rs.45,000/- (being 15% of the cheque amount of Rs.3,00,000/-), i.e. Rs.20,000/- to be paid to the complainant and Rs.25,000/- to be paid to the Medical Officer, Civil Dispensary, Pb.& Haryana High Court, Chandigarh, for purchase of a Ultrasonic Machine for Physiotherapy, which shall be used for the treatment of general public/patients coming to the Dispensary of High Court, within two months from today.

12. Petitioner is directed to file receipt/proof of payment of abovesaid amount of Rs.45,000/- in the office/Registry of this Court within aforesaid period. In case the petitioner fails to deposit the abovesaid amount within two months from today, the order, dated 24.08.2022, passed by learned Additional Sessions Judge, Kaithal, dismissing the appeal filed by the petitioner as well as order, dated 10.01.2019 passed by learned Judicial Magistrate Ist Class, Kaithal, 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.

14. Present petition and CRM-34438-2024 are allowed.

August 30, 2024

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