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

CRR-1807-2024 (O&M)

Date of decision : 11.12.2024

Sardool Singh

.....Petitioner

versus

Gurdeep Singh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. Ravish Bansal, Advocate
for LR of respondent No.1.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. This revision has been filed by the petitioner for setting aside the order dated 04.11.2019 passed by the Additional Chief Judicial Magistrate, Faridkot vide which the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act to undergo rigorous imprisonment for a period of 02 years. The appeal filed by the petitioner against the said conviction and sentence was dismissed by learned Additional Sessions Judge, Faridkot vide judgment dated 02.09.2024.

2. The brief facts of the case are that petitioner had borrowed a sum of Rs.5,00,000/- from the complainant. In order to discharge his legal liability, petitioner issued a cheque bearing No.696640 dated 25.05.2018 for an amount of Rs.5,00,000/- drawn on his account maintained at the



Punjab and Sind Bank, Golewala. However, on presentation of the cheque for its clearance and encashment through his banker, the same was dishonoured citing the reason 'funds insufficient'. Thereafter, legal notice was issued to the petitioner but when he failed to make the payment of said cheque within a stipulated period, complaint under Section 138 of the Negotiable Instruments Act was filed. On conclusion of the trial, the petitioner was convicted by the trial Court vide order dated 04.11.2019 and sentenced him to undergo rigorous imprisonment for a period of 02 years and also directed him to pay fine of Rs.5000/-. Aggrieved by the same, the petitioner filed an appeal and the Appellate Court also upheld the conviction and sentence as awarded by learned trial Court and thus, dismissed the appeal vide its order dated 02.09.2024. Aggrieved by the same, the petitioner has filed the present revision petition.

3. Learned counsel for the petitioner has stated that with the intervention of the respectables, the parties have compromised the matter and nothing is due against the petitioner. It is further submitted that respondent No.1-Gurdeep Singh died leaving behind, Gurjant Singh as his legal representative. He submits that in view of the settlement between the parties, prosecution of the petitioner would be nothing but an abuse of the process of the Court and thus, petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Negotiable Instruments Act. He has stated that the petitioner is a poor person and as such, he is unable to bear the cost if any imposed by this Hon'ble Court keeping in view the observation made by the Hon'ble Supreme Court in '*Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851*'.



4. Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner.

5. Heard.

6. 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. As held '***Raj Reddy Kallem vs. The State of Haryana and another***, Law Finder Doc Id# 2557645, 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.

7. Keeping in view the facts and circumstances of the present case when the matter has been compromised between the parties and the complainant being totally satisfied with the compromise, the present petition is allowed and the judgment dated 02.09.2024 passed by the Additional Sessions Judge, Faridkot and order dated 04.11.2019 passed by the Additional Chief Judicial Magistrate, Faridkot are *set aside* as the main grudge of the complainant regarding payment of cheque amount has been given by the petitioner.

8. Taking into consideration the contentions made by learned counsel for the petitioner regarding the poor financial condition of the petitioner, the Court deems it appropriate to exempt the petitioner from the liability of paying cost/compensation as per the requirement of judgment of Hon'ble Supreme Court passed in **Damodar S. Prabhu's case (supra)**.



9. Revision petition is allowed in above terms. Pending applications, if any, shall also stand disposed of in view of the fact that the main case has been decided. The petitioner be set at liberty forthwith if not required in any other case.

11.12.2024

ps-I

(RAJESH BHARDWAJ)
JUDGE

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