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

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Decided on:30.09.2024

Banta Ram

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jasvir Singh, Advocate, for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Mr. Nagar Singh, Advocate, for respondent No.2.

Rajesh Bhardwaj, J. (Oral)

1. Prayer in the present petition is for compounding of the offence under Section 138 of the Negotiable Instruments Act, 1881, in complaint No.NI-1304 of 2013, and further to quash the sentence of 1 year as awarded to the petitioner vide judgment of conviction and order of sentence dated 13.11.2018 (Annexure P-1) and judgment and order dated 05.01.2023 passed by learned Sessions Judge, Sirsa upholding the said conviction, along with all subsequent proceedings relating thereto or arising therefrom on the basis compromise dated 14.09.2023 (Annexure P-4).

2. Succinctly, the facts of the case are that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') was filed against the petitioners by respondent -Dalbir Singh on the allegations that accused petitioner requested for Rs.10,00,000/- from the complainant on the pretext of purchasing a land with an assurance to repay the same within short time. The complainant believed the petitioner and gave Rs. 10,00,000/- in cash to him in good faith. However, the petitioner failed to repay the money despite several requests made by the complainant.

Then, the petitioner-accused issued a Cheque No.046735 dated 01.06.2012



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for Rs.10,00,000/- drawn on Axis Bank, Sangwan Chowk, Sirsa to the complainant and assured its clearance. However, the said cheque was dishonoured by the accused's bank with the remarks "insufficient funds" vide memo dated 21.07.2012. Thereafter, the complainant issued legal notice dated 08.08.2012 to the petitioner asking him for payment. Notice was sent through registered post vide receipt No.2304 dated 08.08.2012. Despite the notice, the petitioner did not pay/return the amount. Hence the complaint was filed. On the conclusion of trial, the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act, to undergo simple imprisonment for a period of one year. The petitioner was also burdened with compensation of Rs.10,00,000/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned JMIC, the petitioner assailed the same by way of filing an appeal before the learned Appellate Court, Sirsa. Learned Appellate Court, finding no merit in the appeal, dismissed the same by upholding the conviction and sentence awarded to the petitioner vide its order dated 05.01.2023. Aggrieved by the same, the petitioner filed revision petition before this Court bearing No.CRR-518-2023, however, the same was dismissed vide order dated 19.04.2023. Thereafter, good sense prevailed and with the intervention of the respectables, the parties entered into a compromise and decided to bury the hatchet. Hence, the petitioner again approached this Court by way of filing the present revision petition challenging the above said orders.

3. Learned counsel for the petitioner has submitted that compromise has been arrived at between the parties, which is placed as Annexure P-4. He submits that as per the compromise arrived at between the



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parties, the petitioner has already paid 3,00,000/- to the complainant but at the time of recording of statement, the complainant has backed out of the same and now neither he is returning the money nor he is abiding by the compromise arrived at between them. He submits that even otherwise, out of one year imprisonment, the petitioner has already undergone 11 months imprisonment. He has further stated that the complainant has now backed out of the compromise and has refused to honour the terms of compromise, although in terms of compromise, the petitioner has paid Rs.3,00,000/- to the complainant. He has stated that the complainant has no right to back out of the compromise once the petitioner has performed his part of settlement and under these circumstances, the present petition is liable to be accepted and the orders under challenge are liable to be quashed.

4. Learned counsel for the complainant has fairly submitted that the complainant-respondent is not even picking his phone and he is unable to contact him.

5. After hearing learned counsel for the parties and going through the file, it is clear that the present petition has been filed for compounding of the offence under Section 138 of the Negotiable Instruments Act, 1881 and for setting aside the order dated 13.11.2018 (Annexure P-1) and order dated 05.01.2023, on the basis of compromise effected between the parties. As per Annexure P-4, the petitioner has already paid Rs.3,00,000/- to the complainant and the complainant pleaded no objection, if the orders under challenge are quashed. Although the complainant has received an amount of Rs.3,00,000/- from the petitioner yet he has backed out of the compromise and now he is not coming forward to support the compromise in the present



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petition. The petitioner has already undergone 11 months of imprisonment out of one year imprisonment.

6. Under these circumstances, the complainant cannot be allowed to back out of the compromise especially when the petitioner has already performed his part as agreed in the settlement/compromise. The fact regarding receipt of Rs.3 lacs by respondent No.2 has not been denied by either respondent No.2 or his counsel rather on 22.04.2024, respondent No.2 prays for some time to bring draft of Rs.3 lacs to return the same to the petitioner. This shows that amount of Rs.3 lacs was actually received by respondent No.2/complainant in lieu of compromise dated 14.09.2023 and as such now he cannot be permitted to back out of the terms of the compromise, specially when the petitioner has already performed his part of the settlement by paying the amount of Rs.3 lacs to him. This Court finds that resiling from the compromise by the complainant is immaterial and the continuation of the present case would be an abuse of the process of the Court.

7. The Coordinate Bench of this Court in the case of **Ram Lal and others Vs. State of Haryana and another, 2008(2) RCR (Criminal) 823**, has held that when the parties have entered into a compromise, and the complainant has backed out from the same, the FIR is liable to be quashed in such like situation. The relevant paragraph of the said judgment reads as under:

*“4. Learned counsel for the petitioners by placing reliance upon the judgment of Hon'ble Supreme Court in the case of **Mohd. Shamim Vs. Smt. Nahid Begum, 2005(1) RCR (Criminal) 697: 2005(1) Apex Criminal 299(SC)** contends*



that in view of the compromise having been entered into between the parties and amount having been received by the complainant, the continuation of proceedings is nothing but misuse of the process of the Court. The Hon'ble Supreme Court has been pleased to observe as under:-

14. This Court in Ruchi Agarwal Vs. Amit Kumar Agrawal and others, 2004(4) RCR (Criminal) 949(SC):2004(8) Supreme 525, in almost a similar situation has quashed a criminal proceeding against the husband, stating "Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.

8. In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the Court if the criminal proceedings from which this appeal arises is allowed to continue."

8. In view of the abovesaid facts and circumstances of the case and the law settled in the abovesaid judicial precedent, the present petition is allowed. Consequently, the complaint under Section 138 of the Negotiable Instruments Act, 1881 alongwith subsequent proceedings including the judgment of conviction and order of sentence dated 13.11.2018 (Annexure P-1) and judgment and order dated 05.01.2023 (Annexure P-2) are hereby quashed *qua* the petitioner on the basis of compromise.

30.09.2024
sharmila

(RAJESH BHARDWAJ)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No