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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1974-2024 (O&M)
Date of decision : 04.10.2024

Harjinder KaurPetitioner

versus

Satnam Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Harpreet Kaur Arora, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

CRM-40367-2024

For the reasons mentioned in the application, delay of 271
days in filing the revision is condoned.

Application stands allowed.

CRM-40368-2024

Application is allowed as prayed for.

Annexure P-1 along with judgments is taken on record.

CRR-1974-2024 (O&M)

1. This revision has been filed by the petitioner impugning the
order dated 06.10.2023 passed by learned Additional Sessions Judge,
Ferozepur whereby the conviction and sentence awarded by learned
Judicial Magistrate Ist Class, Ferozepur vide order dated 16.01.2020 in a
complaint under Section 138/142 of Negotiable Instruments Act has been
upheld.



2. As per facts of the case, the complainant who was having friendly relations with the accused/petitioner advanced the loan of Rs.2,50,000/- to her. Thereafter to discharge her legal liability, accused issued a cheque bearing No.095260 dated 01.07.2016 drawn at State Bank of Patiala, Ferozepur City amounting to Rs.2,50,000/- but on being presented in the Bank the same was dishonoured vide memo dated 11.07.2016 with the remarks “funds insufficient”. Resultantly, legal notice dated 13.07.2016 was issued to the accused and ultimately, complaint under Section 138 of the Negotiable Instruments Act was filed.

3. On the conclusion of trial, the petitioner was convicted and sentenced by trial Court vide order dated 16.01.2020 to undergo rigorous imprisonment for a period of one year and to pay an amount of Rs.2,50,000/- to the complainant as compensation. Aggrieved by the same, petitioner preferred an appeal and the Appellate Court while dismissing the appeal vide its order dated 06.10.2023 upheld the conviction and sentence as awarded by learned trial Court. Aggrieved by the same, petitioner has filed the present revision petition.

4. It has been submitted by counsel for the petitioner that petitioner has been convicted under Section 138 of the Negotiable Instruments Act and sentenced for a period of one year. She submits that the whole amount of compensation has already been paid to the complainant. As both the sides have amicably resolved the issue, it is thus, submitted that the complaint filed under Section 138 of the Act along with subsequent proceedings be quashed. She has submitted that petitioner is a poor lady having no source of income and as such, she is unable to pay 15% of the cheque amount in compliance of the directions issued by the



Hon'ble Supreme Court in **Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851.**

5. Notice of motion.

6. On asking of the Court, Mr. Tarun Aggarwal, Senior DAG, Punjab accepts notice on behalf of respondent No.2-State. Mr. R.V.S. Chugh, Advocate accepts notice on behalf of respondent No.1 and filed power of attorney, which is taken on record.

7. Learned counsel for the respondent has affirmed the contentions raised by learned counsel for the petitioner and has submitted that the matter has been resolved and the compensation amount has been paid to him. He submits that he does not want to pursue the present petition and has no objection if the matter is allowed to be compounded and the petitioner is acquitted of the charges framed against her. He has further submitted that it is correct that the petitioner is a poor lady having no source of income and now the complainant has no grudge against her.

8. In view of the settlement arrived at between the parties and also the contentions raised by learned counsel for the parties, the petitioner is allowed to compound the offence under Section 138 of the Negotiable Instruments Act. As a result thereof, order dated 06.10.2023 passed by the learned Additional Sessions Judge, Ferozepur whereby the conviction and sentence awarded to the petitioner by the learned JMIC, Ferozepur vide order dated 16.01.2020 was upheld including the complaint under Section 138 of the Negotiable Instruments Act as well as its subsequent proceedings arising therefrom are hereby quashed.

9. This Court is aware of the fact that as per law laid down by the Hon'ble Supreme Court in **Damodar S. Prabhu's case** (supra) offence

is to be compounded by burdening the petitioner with 15% of the cheque amount to be paid as compensation/costs but taking into consideration the financial condition of the petitioner who is stated to be a poor lady having no source of income, this Court deems it appropriate to waive off the said condition of deposit of 15% of the cheque amount as costs/compensation. Ordered accordingly.

10. The present petition is allowed in the above terms. Petitioner who is stated to be in custody be set at liberty forthwith if not required in any other case.

04.10.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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