



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

CRR-3444-2018 (O&M)

Date of Decision: 05.09.2024

M/s Garg Contractors and another

.....Petitioners

Versus

M/s Amrit Trading Company and another

....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. Aman Kashyap, Advocate
for the petitioners.

Mr. Munish Kumar Garg, Advocate and
Ms. Bhawna Thakur, Advocate
for respondent No.1.

Mr. Sumit Jain, Addl. A.G., Haryana

RAJESH BHARDWAJ, J.(ORAL)

1. The petitioners have challenged the order dated 24.09.2015 passed by Judicial Magistrate Ist Class, Jind whereby petitioner No.2 was convicted for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881 and was sentenced to undergo simple imprisonment for a period of two years and was directed to pay compensation of Rs.81,24,537/- along with 6% interest from the date of institution of the complaint till realization of the amount and order dated 13.03.2018 passed by learned Additional Sessions Judge, Jind, dismissing the appeal of the petitioner against the order dated 24.09.2015.



2. The case as enumerated from the facts and circumstances is that the complainant was dealing in sale and purchase of Timber in whole-sale/retail at Jind Headquarters. He used to run his business on debit and credit basis and used to keep and maintain daily regular accounts books of business transactions at Jind Headquarters for all intents and purposes. Petitioner No.2 being proprietor of petitioner No.1 used to purchase timber from the complainant on credit basis from Gandhidham, Panchkula and Jind and used to pay the amount of bills of Timber as per his suitability by way of Bankers Cheque and on the date of issuance of cheques a legally recoverable sum of more than the amount mentioned in the cheques, was due against the petitioner towards the complainant as per ledger account of petitioner No.1 maintained by the complainant at its branch offices. In lieu of the part payment of aforesaid legally recoverable balance amount, petitioner No.2 being sole proprietor of petitioner No.1 had issued and delivered different cheques which were dishonoured for the reasons of 'Exceed Arrangements' and the same were returned. Legal notice dated 17.11.2011 was issued and served upon the petitioners. Despite the receipt of the legal notice, the petitioners did not clear the dues and hence, the complaint was filed.

3. 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 two years by Judicial Magistrate Ist Class, Jind vide its judgment dated 24.09.2015. The petitioner was also burdened with compensation of Rs.81,24,537/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned Judicial Magistrate Ist Class, Jind, the petitioner assailed the same by way of filing an appeal before



Judge, finding no merit in the appeal, dismissed the same on 13.03.2018 by upholding the conviction and sentence of the petitioner. Hence, the petitioner has approached this Court by way of filing the present petition challenging the above said orders.

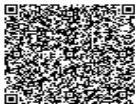
4. Learned counsel for the petitioner has fairly submitted that after dismissal of the appeal, the matter has been compromised and the amount, as agreed in the compromise, has also been paid by the petitioner to the complainant and now nothing is due against him. He has further submitted that once the parties have settled the dispute amicably, then in view of the law settled, the petitioner be allowed to compound the offence and he be acquitted of the charges framed 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. Learned counsel for the petitioner has further stated that the amount involved in the present case was Rs.81 lacs and the petitioner has paid Rs.1.00 crore to the complainant and an additional amount of Rs.19 lacs has been paid as compensation by taking into consideration the observation made by the Hon'ble Supreme Court in '**Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (CrL) 851**', and the petitioners may be allowed to compound the offence in the present case and the additional amount already paid to the complainant may be treated as compensation, which is required to be awarded by this Court in view of the observation made in the above said case.



5. Learned counsel for respondent No.1 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that he has no objection, if the present petition is allowed. He has further stated that he has no objection if the additional amount of Rs.19 lacs received by the complainant is treated as the compensation in lieu of the judgment passed in ***Damodar S. Prabhu's*** case (Supra).

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 the counsel of respondent No.1/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. As the petitioner has already paid additional amount of Rs.19 lacs to the complainant so the same is ordered to be treated as a compensation required to be awarded to the complainant in lieu of judgment passed in ***Damodar S. Prabhu's*** case (Supra).

7. 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 consequence, the order dated 24.09.2015 passed by Judicial Magistrate Ist Class, Jind vide which the petitioner was convicted under Section 138 of the Negotiable Instruments Act and order dated 13.03.2018 passed by learned Additional Sessions Judge, Jind, dismissing the appeal of the petitioner against the order dated 24.09.2015, are set aside and the petitioner is



acquitted of the charges framed against him. Petition stands allowed.

8. Petitioner No.2 be set at liberty forthwith, if not required in any other case.

05.09.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

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