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

CRR No.2428 of 2024 (O&M)

Date of Decision: 18.12.2024

Vinod Kumar

...Petitioners

Versus

HDFC Bank Limited and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Rhythem Bajaj, Advocate
for the petitioner.

Mr. Tarunjit Singh Grewal, Advocate
for respondent No.1.

Mr. Karunesh Kaushal, AAG, Punjab.

RAJESH BHARDWAJ.J (Oral)

CRM-47716-2024

Instant application has been filed for condonation of delay of 99 days in filing the revision petition.

For the reasons recorded in the application, the same is allowed and delay of 99 days in filing the revision petition is condoned.

CRR-2428-2024 (O&M)

1. Instant petition has been filed praying for setting aside the impugned judgment dated 23.05.2024 passed by learned Sessions Judge, Fazilka and impugned judgment dated 24.03.2023 passed by the learned Judicial Magistrate Ist Class, Abohar, District Fazilka.



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 simple imprisonment for a period of two years and further to pay compensation of Rs.7,20,000/- under Section 357 Cr.P.C. by the learned Judicial Magistrate Ist Class, Abohar vide order dated 24.03.2023, and the same was affirmed by learned Sessions Judge, Fazilka vide order dated 23.05.2024. However now both the sides have amicably resolved their *inter se* dispute as the whole amount due has already been paid to the complainant-Bank. He prays for compounding the offence and setting aside the order dated 23.05.2024 passed by the learned Sessions Judge, Fazilka and order dated 24.03.2023 passed by the learned Judicial Magistrate Ist Class, Abohar.

3. Mr. Tarunjit Singh Grewal, Advocate has appeared and filed his power of attorney on behalf of respondent No.1 today in the Court and the same is taken on record. He has affirmed the factum of compromise and also suffered a statement before this Court that the loan amount is satisfied. He has stated that he has no objection if the present petition is allowed, offence is compounded and orders, dated 24.03.2023 and 23.05.2024 are quashed.

4. The case as enumerated from the facts and circumstances of the case is that a complaint under Section 138 of the NI Act was filed against the petitioner by respondent No.1 on the allegations that the petitioner/accused had executed loan agreement and other relevant documents in favour of complainant Bank and undertaken to make



repayment of loan in terms of agreement and in case of default of any installment, complainant Bank would have the right to recover whole of the loan amount along with interest in lump-sum from him through appropriate legal process. The petitioner committed defaults in repayment of the scheduled amount and in order to discharge the part of the liability, due and outstanding against the petitioner, he issued a cheque bearing No.000003 dated 29.06.2018 amounting to Rs.7,20,000/-, which was dishonored by the Bank for want of insufficient funds vide its memo dated 29.06.2018. Legal notice dated 18.07.2018 was issued and served upon the petitioner. Despite the receipt of the legal notice, the petitioner did not clear the dues and hence, the complaint was filed.

5. On conclusion of the trial, the petitioner was convicted and sentenced under Section 138 of the NI Act to undergo simple imprisonment for a period of two years. The petitioner was also burdened with compensation of Rs.7,20,000/- to be payable to the complainant. Aggrieved by the conviction and sentence awarded by learned Judicial Magistrate First Class, Abohar, the petitioner assailed the same by way of filing an appeal before the learned Sessions Judge, Fazilka. Learned Sessions Judge, finding no merit in the appeal, dismissed the same on 23.05.2024 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.

6. 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 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.

7. Learned counsel appearing on behalf of respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner and has submitted that the Bank has received the amount as per the compromise and have no objection, if the present petition is allowed.

8. 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 representative of 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.

9. 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 23.05.2024 passed by the learned Sessions Judge, Fazilka and order dated 24.03.20213 passed by the learned Judicial Magistrate First Class, Abohar, convicting and sentencing the petitioner under Section 138 of the NI Act, are hereby set aside.

10. Present petition is allowed. The petitioner be set at liberty if not required in any other case. Pending applications, if any, also stand disposed of.

18.12.2024
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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No