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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 251/2023 & CRL. M.A. 25810/2022**

RAVINDER GUPTA

..... Petitioner

Through: Mr. Pramath Kumar Sharma,
Advocate for Mr. Shiv Mangal
Sharma, Advocate.

versus

STATE NCT OF DELHI & ANR.

..... Respondent

Through: Mr. Sanjeev Sabharwal, APP for State
Mr. Ravi Agrawal, Advocate for
respondent no.2.
R-2 joined through VC.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

21.03.2024

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1. By way of present petition filed under Article 227 of the Constitution of India, 1950 read with Section 482 of the Criminal Procedure Code, 1973 ('Cr.P.C. '), the petitioner seeks to assail the order dated 26.11.2022 passed by learned ASJ, Patiala House Court, New Delhi in Crl.Rev.No.182/2020 titled as 'Ravinder Gupta vs. Suman Chouhan', whereby petitioner's application filed under Section 143 and 147 of the Negotiable Instruments Act ('NI Act') read with Section 320 Cr.P.C., seeking compounding of the offence under Section 138 NI Act came to be dismissed.

2. The proceedings before learned ASJ emanated from CC No. 6937/2018 filed by respondent No.2 with respect to cheque bearing No.045029 dated 15.10.2017 for a sum of Rs.45,000/-, which was dishonoured upon presentation with remark 'insufficient funds'. Vide



judgment dated 07.02.2020, the petitioner was convicted for the offence punishable under Section 138 NI Act and vide order on sentence dated 11.02.2020, he was directed to undergo simple imprisonment for 6 months with payment of fine of Rs.70,000/- in default whereof, he was directed to further undergo simple imprisonment for six months.

3. The present petition came up for hearing on 09.12.2022, wherein while issuing notice, the Court noted that the petitioner was directed to pay fine of Rs.70,000/- as compensation and that he volunteered to pay double the amount of the cheque in question i.e., Rs.90,000/-, in addition to deposit of 15% of the cheque amount as compensation in DLSA, in terms of the decision of Supreme Court in Damodar S. Prabhu v. Sayed Babalal H reported as **(2010) 5 SCC 663**.

4. The petitioner has filed a compliance affidavit stating therein that the amount of Rs.90,000/- stands deposited by way of a demand draft in favour of the Registrar General of this Court. Further, a sum of Rs. 6750/- being 15% of the cheque amount was also deposited with DLSA, a copy of receipt has also been placed on record.

5. During the course of submissions, learned counsel for respondent No.2, on instructions from respondent No.2, who has joined the proceedings through V.C., states that he has no objection to the compounding of the offence.

6. Section 147 of the NI Act stipulates that offences under the NI Act are compoundable. The said provision came up for consideration before Supreme Court in Damodar S. Prabhu (Supra) wherein it was held:-

“xxx

21. With regard to the progression of litigation in cheque



bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made



before the Supreme Court, the figure would increase to 20% of the cheque amount.

xxx”

7. In the present case, the petitioner has deposited more than what was imposed as a sentence by depositing Rs.90,000/-, which is twice the amount of the subject cheque and has also deposited the fine amount in terms of Damodar S. Prabhu (Supra).

8. In light of the abovementioned facts, the petition is allowed and the offence is compounded. Consequently, the petitioner is acquitted of the offence. As a necessary sequitur, proceedings before the learned ASJ in Cr.Rev.No.182/2020 are quashed. Bail bond and surety bond are discharged.

9. The Registry is directed to release the aforesaid amount of Rs.90,000/- deposited with the Registrar General of this Court, alongwith the interest accrued thereon, to respondent No.2.

10. The petition is disposed of alongwith pending application.

11. A copy of this order be communicated to the learned Trial Court.

MANOJ KUMAR OHRI, J

MARCH 21, 2024