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

+ CRL.M.C. 2748/2024

VINOD GUPTA

.....Petitioner

Through: Mr. Vaibhav Dubey,
Advocate (Through V.C.).

versus

MANOJ GARG

.....Respondent

Through: Mr. Vikram Aggarwal,
Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **21.10.2024**

1. The present petition is filed for quashing of the order dated 20.12.2023 (hereafter '**impugned order**'), passed by the learned Additional Sessions Judge ('**ASJ**'), North District, Rohini Courts New Delhi in Criminal Appeal No. 36/2023 whereby the appeal filed by the petitioner challenging the order on conviction dated 24.12.2022 and order on sentence dated 19.01.2023 was dismissed.

2. By the order dated 24.12.2022, the petitioner was convicted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**') in CT No. 3783/2019. By the order on sentence dated 19.01.2023, the petitioner was sentenced to simple imprisonment for a period of six months, and was also directed to pay compensation to the respondent for an amount of Rs.4,01,250/-, that is, the cheque amount alongwith interest at the rate of 9 percent per annum from 2019, and in default of payment of the compensation, to undergo further simple imprisonment for a period of six months.

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3. The learned counsel for the petitioner submits that since the passing of the impugned order, the parties have amicably settled all their disputes *inter se*. He submits that in terms of the settlement between the parties, the entire payment has been made to the respondent. He submits that the petition is also supported by a duly sworn No Objection Affidavit of the respondent.

4. The present petition has been filed on the ground that the parties have amicably settled all their disputes and have also entered into a Memorandum of Understanding dated 05.03.2024 of their own free will without any undue influence, pressure or coercion.

5. The petition is also supported by a duly sworn No Objection Affidavit filed by the respondent whereby the respondent has deposed that he has settled the matter with the petitioner, and has no objection if the sentence awarded *vide* order dated 19.01.2023 in CT Case No. 3783/2019 is quashed.

6. Offence under Section 138 of the NI Act is compoundable in nature.

7. Even though an attempt for compounding of the offence under NI Act should be made at the initial stage rather than the later stage, however, there is no bar against seeking compounding of the offence even after conviction [Ref. ***Raj Reddy Kallem v. The State of Haryana & Anr. : 2024 INSC 347, K.M Ibrahim v. K.P Mohammed & Anr. : (2010) 1 SCC 798***, etc.].

8. The Hon'ble Apex Court in the case of ***Damodar S. Prabhu v. Sayed Babalal H. : (2010) 5 SCC 663*** had highlighted that the compensatory aspect of the proceedings under the NI Act take precedence over the punitive aspect and stipulated certain guidelines for compounding the offences under the NI Act. The



relevant portion of the judgment is reproduced hereunder:

“4... What must be remembered is that the dishonour of a cheque can be best described as a regulatory offence that has been created to serve the public interest in ensuring the reliability of these instruments. The impact of this offence is usually confined to the private parties involved in commercial transactions.

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18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect. There is also some support for the apprehensions raised by the learned Attorney General that a majority of cheque bounce cases are indeed being compromised or settled by way of compounding, albeit during the later stages of litigation thereby contributing to undue delay in justice delivery. The problem herein is with the tendency of litigants to belatedly choose compounding as a means to resolve their dispute...

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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.

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25. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the court is spent on the trial of these cases and the parties are not liable to pay any court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. Bona fide litigants should of course contest the proceedings to their logical end.”

(emphasis supplied)

9. In the present case, the parties have settled the matter after the appeal filed by the petitioner challenging his conviction was dismissed. It is relevant to note that the complainant has duly consented to the compounding of the offence.

10. It is pointed out that the entire payment in terms of the Settlement Agreement already stands paid to the respondent.

11. Considering the above, the present petition is allowed and the subject complaint is compounded, subject to the payment of a cost of ₹40,000/- by the petitioner, to be deposited with the Delhi High Court Legal Services Committee within a period of twelve weeks from date.

12. Let the proof of deposit of cost be submitted with the Registry of this Court.

13. The petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 21, 2024/‘Aman’

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