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

\+ CRL.REV.P. 870/2024, CRL.M.A. 19904/2024 & CRL.M.(BAIL) 1126/2024

MANISH YADAV .....Petitioner
Through: Mr. Shubhankar Choudhary, Advocate (Through V.C.).

versus

TRIPAT KAUR .....Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **20.08.2024**

1. The present petition is filed under Sections 397 and 401 read with Section 482 of the Code of Criminal Procedure, 1973 (‘**CrPC**’) challenging the judgment dated 14.05.2024 passed by the learned Additional Sessions Judge, North-West, Rohini Courts, Delhi in Criminal Appeal No.280/2023.

2. The learned ASJ, by the impugned judgment, upheld the judgment of conviction dated 11.12.2023 and order on sentence dated 16.12.2023, in CC No. 568/2021 whereby the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of ₹10,02,000/-, within 60 days of passing of the order failing which to further undergo simple imprisonment of 20 days.

3. It is averred that the respondent/complainant had filed a complaint under the provisions of the NI Act as the cheques issued by the petitioner/ accused, for the amounts of ₹7,00,000/-

in discharge of his liability were returned back with the remark – "Account Closed".

4. The learned counsel for the petitioner submits that the parties have since settled the dispute amicably for a total settlement amount of ₹5,50,000/-.

5. He further submits that the respondent/complainant has handed over a Demand Draft for a sum of ₹1,50,000/- bearing No. 606947 dated 01.06.2024 drawn on State Bank of India.

6. The complainant was present on 02.08.2024 and submitted that she had no objection if the proceedings are closed subject to the petitioner paying the agreed amount.

7. Apart from a sum of ₹1,50,000/- that has been handed over, a sum of ₹50,000/- has also been paid to the complainant.

8. The petitioner has agreed to pay the balance sum of ₹3,50,000/- within a period of 35 months. He submits that he will disperse the above amount by paying a sum of ₹10,000/- every month.

9. The petitioner is present and undertakes that the sum of ₹10,000/- would be paid every month for the next 35 months without any default. He submits that ₹10,000/- will be paid before 20th day of every month.

10. The petitioner is bound down to the said undertaking.

11. The offence under Section 138 of the NI Act is compoundable in nature.

12. 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.].

13. 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:

> a. *"**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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> ***b. 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…***
>
> *c.* ***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:*
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> ***d. THE GUIDELINES***
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> *(i) In the circumstances, it is proposed as follows:*
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> *(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 [illegible]d hearing of the case [illegible]at 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."*

14. In the present case, the parties have settled the matter at the appellate stage. It is relevant to note that the complainant has duly consented to compounding the offence in the present case.

15. In such circumstances, considering the settlement between the parties, the present petition is allowed and the impugned judgment as well as the judgment of conviction dated 11.12.2023 and order on sentence dated 16.12.2023, passed in CC No. 568/2021, are set aside, subject to the petitioner paying an amount of ₹55,000-/ to the Delhi High Court Legal Services Committee, within a period of eight weeks from the date.

16. Proof of deposit of cost to be deposited with the Registry of this Court.

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

AMIT MAHAJAN, J

AUGUST 20, 2024