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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6969/2024**

MEENA DEVI @ VEENA DEVIPetitioner

Through: Mr. Tarun Lal and Ms.
Shasha Jain, Advocates.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Ajay Vikram Singh,
APP for the State.
Mr. Sumit Ahuja,
Advocate for R-2 along
with R-2 in person.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
22.10.2024

1. The present petition is filed, *inter alia*, seeking quashing of the complaint case being CC No. 454/2020 filed under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**') and all consequential proceedings arising therefrom. The petitioner has also sought release of the FDRs deposited by her before the learned Appellate Court.
2. It is stated that the petitioner had taken friendly loans from Respondent No.2 and issued a cheque for the sum of Rs.8,20,000/- in discharge of her liability. The subject cheque was returned unpaid with the remark- 'insufficient funds'. Pursuant to the same, the proceedings under Section 138 of the NI Act were initiated against the petitioner for dishonour of the cheque in question.
3. By judgment on conviction dated 25.01.2023, the learned



Trial Court convicted the petitioner for the offence under Section 138 of the NI Act. By order on sentence dated 30.01.2023, the learned Trial Court sentenced the petitioner to pay Rs.10,00,000/- as compensation to Respondent No.2 and to undergo three months of simple imprisonment, and in default of payment of the said amount, to further undergo simple imprisonment for a period of one month.

4. The said order was challenged by the petitioner in appeal, being, CA No. 61/2023. By judgment dated 04.07.2024, the Appellate Court dismissed the appeal and upheld the judgment on conviction dated 25.01.2023 and order on sentence dated 30.01.2023.

5. The present petition is filed on the ground that the petitioner and the complainant / Respondent No. 2 have entered into a settlement by way of Deed of Settlement dated 26.07.2024, on their own consent, without any force, coercion or misrepresentation.

6. In terms of the settlement, the petitioner has paid the entire cheque amount of Rs.8,00,000/- to Respondent No.2.

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

8. 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.].

9. The Hon'ble Apex Court in the case of **Damodar S. Prabhu v. Sayed Babalal H. : (2010) 5 SCC 663** had highlighted
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that the compensatory aspect of 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)

10. 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 of the offence.

11. In terms of **Damodar S. Prabhu v. Sayed Babalal H.** (*supra*), since the parties have arrived at a settlement after the conviction of petitioner was upheld in appeal, a cost of 15% of the total cheque amount can be imposed.

12. The learned counsel for the petitioner submits that the petitioner is a widow and she is suffering from financial constraints. He requests that a lenient view may be taken.



13. Considering the above, the present petition is allowed and the subject complaint is compounded, on the petitioner paying a cost of ₹20,000/- to be deposited with Delhi High Court Legal Services Committee, within a period of eight weeks.

14. The learned counsel for the petitioner submits that certain amount is lying with the learned Appellate Court. The learned counsel for Respondent No.2 submits that the said amount can be released in favour of the petitioner, since entire settlement amount has already been received.

15. In view of the above, the learned Appellate Court is directed to forthwith release the amount deposited by the petitioner in her favour, along with any accrued interest, on the strength of the present order.

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

17. The present petition is allowed in the aforesaid terms.

AMIT MAHAJAN, J

OCTOBER 22, 2024
“SSC”/“SK”