



**117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-136-2025 (O&M)
Date of decision : 20.01.2025**

Rakesh Kumar Sood

.....Petitioner

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. G.S. Simble, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (ORAL)

1. This revision has been filed by the petitioner impugning the order dated 25.11.2024 passed by learned Additional Sessions Judge, Ludhiana in Criminal Appeal No.1138 of 2023 whereby the conviction and sentence awarded by learned Sub Divisional Judicial Magistrate vide order dated 23.11.2023 in a complaint under Section 138 of Negotiable Instruments Act has been upheld.

2. It has been submitted by learned counsel for the petitioner that petitioner was prosecuted in a complaint under Section 138 of the Negotiable Instruments Act and after the trial, the trial Court convicted and sentenced him to undergo rigorous imprisonment under Section 138 of NI Act for a period of one year and to pay compensation of Rs.17,00,000/- to the complainant which order was upheld by the Appellate Court. He has further submitted that now the parties have settled the dispute and entire amount has been paid by the petitioner to the complainant-respondent and now nothing is due against him. He further

submits that in view of the settlement effected between the parties, the



petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Act and the order under challenge in the present revision petition be set aside. 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 later stage of criminal proceedings including after conviction. He has submitted that petitioner is a poor person and as such, he is unable to pay 15% of the cheque amount in compliance of the directions issued by the Hon'ble Supreme Court in **Damodar S. Prabhu Vs. Sayad Babalal H. 2010(2) RCR (CrI.) 851**.

3. Notice of motion.

4. On asking of the Court, Mr. Tarun Aggarwal, Senior DAG, Punjab accepts notice on behalf of respondent No.2-State. Ms. Pratula Sethi, Advocate accepts notice on behalf of respondent No.2 and filed power of attorney, which is taken on record.

5. Learned counsel for respondent No.2 has not denied the contentions raised by counsel for the petitioner and has affirmed that the compromise has been effected between the parties and the whole due amount has been paid to the complainant. She submits that the respondent-complainant does not want to pursue the present petition and has no objection if the matter is allowed to be compounded by setting aside the conviction and sentence awarded to the petitioner by the Courts below and the petitioner is acquitted of the charges framed against him.

6. In view of the settlement arrived at between the parties and also the contentions raised by learned counsel for the parties, the



petitioner is allowed to compound the offence under Section 138 of the Negotiable Instruments Act. As a result thereof, order dated 25.11.2024 passed by the learned Additional Sessions Judge, Ludhiana whereby the conviction and sentence awarded to the petitioner by the learned JMIC vide order dated 23.11.2023 was upheld is hereby *set aside*.

7. Heard. 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 learned counsel for respondent-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.

8. This Court is aware of the fact that as per law laid down by the Hon'ble Supreme Court in **Damodar S. Prabhu's case** (supra) offence is to be compounded by burdening the petitioner with 15% of the cheque amount to be paid as compensation/costs but taking into consideration the financial condition of the petitioner who is stated to be a poor person, this Court deems it appropriate to allow the petitioner to compound the offence and he is ordered to be acquitted of the charges framed against him. As a consequences, the order dated 25.11.2024 passed by learned Additional Sessions Judge, Ludhiana upholding the conviction and sentence of the petitioner under Section 138 of the NI Act and order dated 23.11.2023 vide which the petitioner was awarded conviction and sentence for a period of one year rigorous imprisonment along with compensation of Rs.17,00,000/- are *set aside* subject to payment of

Rs.50,000/- to be paid to the complainant within a period of two weeks from today.

9. Cost of Rs.50,000/- be deposited before the trial Court/Duty Magistrate within a period of two weeks from today and thereafter, the trial Court is directed to issue notice to the complainant and on his appearance, release the amount forthwith to the complainant. The petitioner be set at liberty if he is not required in any other case immediately on deposit of cost of Rs. 50,000/- before the trial Court/Duty Magistrate. In case the petitioner fails to deposit abovesaid cost amount within the stipulated period then the present order would be of no avail to him and the orders dated 23.11.2023 and 25.11.2024 under challenge would become operational and the present petition shall be deemed to have been dismissed.

10. Revision petition is allowed in above terms.

20.01.2025
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No