



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

**CRM-14636-2025 in/and
CRR-248-2025 (O & M)
Date of decision: 21.04.2025**

JAGSIR SINGH

...PETITIONER

V/S

KANWALJIT SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.P. Singh, Advocate for the petitioner.

Mr. G.S. Sidhu, Advocate for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

CRM-14636-2025

This application has been filed under Section 528 BNSS, 2023 seeking pre-ponement of the main case from 23.04.2025 to an earlier date.

Notice in the application.

Mr. G.S. Sidhu, Advocate has put in appearance on behalf of respondent/non-applicant and filed his memo of appearance. He submits that he has no objection in case, the main case is preponed.

With the consent of both the parties, main case is preponed and is taken on board today itself.

CRM-14637-2025

This is an application filed under Section 528 of BNSS, 2023 for placing on record the compromise dated 24.03.2025 as Annexure A-1.

For the reasons mentioned in the application, the same is allowed.



**CRM-14636-2025 in/and
CRR-248-2025 (O & M)**

2

Compromise dated 24.03.2025 is taken on record as Annexure A-1.

MAIN CASE

1. The present revision petition has been filed for setting aside judgment and order of sentence dated 14.12.2022 passed by the learned Judicial Magistrate 1st Class, Moga and judgment dated 18.10.2023 passed by learned Additional Sessions Judge, Moga.

2. Brief facts of the present case are that the petitioner borrowed an amount of Rs.2,50,000/- from the respondent. In discharge of the said liability, he issued a cheque bearing No.046662 dated 03.07.2018 for an amount of Rs.2,50,000/- drawn on Punjab National Bank, Branch Moga Mehla Singh, in favour of the complainant. When the said cheque was presented for its encashment, the same was dishonoured vide return memo dated 05.07.2018 with remarks "Drawer Signature Differs". Thereafter, the complainant served a legal notice dated 20.07.2018 upon the petitioner, however, he did not pay the amount. Hence, the complaint.

3. After appreciating the evidence available on record, the learned trial Court convicted and sentenced the petitioner vide judgment and order dated 14.12.2022. Aggrieved by the same, the petitioner approached the learned lower Appellate Court, but his appeal was dismissed vide judgment dated 18.10.2023. Hence, the petitioner has approached this Court by way of filing present petition.

4. Learned counsel for the petitioner submits that the petitioner was convicted under Section 138 of NI Act and was awarded rigorous imprisonment for a period of 02 years and was directed to pay a compensation



**CRM-14636-2025 in/and
CRR-248-2025 (O & M)**

3

of Rs.2,50,000/-, in default of payment of compensation he was further directed to undergo rigorous imprisonment for 03 months.

5. Learned counsel further submits the petitioner has been convicted for commission of offence under Section 138 of Negotiable Instruments Act, 1881, which is compoundable in nature. Furthermore, he refers to the compromise deed dated 24.03.2025 (Annexure A-1) and submits that during the pendency of the present revision petition, an amicable settlement has taken place. As per compromise, entire outstanding amount has been paid to the respondent.

6. Learned counsel for the respondent affirms to the factum of compromise and submits that the respondent has received the entire amount in terms of the compromise and has no objection in case, the offence under Section 138 of NI Act be compounded and the petitioner be acquitted of the notice of accusation framed against him.

7. I have heard learned counsel for the parties and perused the paper-book with their able assistance.

8. It is settled law that the proceedings initiated under Section 138 of the NI Act are quasi-criminal in nature and the object and purpose of this enactment is to provide a compensatory mechanism for expeditious recovery of money as opposed to punishing the accused. A two Judge Bench of the Hon'ble Supreme Court in ***R. Vijayan Vs. Baby (2012) 1 SCC 260*** has considered the said issue and come to the conclusion that punishing the offender is secondary concern.

9. The amendment carried out in the year 2002 in the NI Act intended to make the nature of offence under Section 138 of the NI Act as a



CRM-14636-2025 in/and
CRR-248-2025 (O & M)

4

civil wrong while making it compoundable. A two Judge Bench of the Hon'ble Supreme Court in *Meters and Instruments Private Limited and another Vs. Kanchan Mehta (2018) 1 SCC 560*, speaking through Justice A.K. Goel has held as under:-

“7. This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions’ cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable..... xxxx xxxx xxxx

18.2. The object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, compounding at the initial stage has to be encouraged but is not debarred at later stage subject to appropriate compensation as may be found acceptable to the parties or the court.

18.3. Though compounding requires consent of both parties, even in absence of such consent, the court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused.”

10. A two Judge Bench of the Hon'ble Supreme Court in *JK Industries Limited and others Vs. Amar Lal V. Jumani and another (2012) 3 SCC 255* has examined the issue whether for compounding of an offence, consent of aggrieved party is required and speaking through Justice Asok Kumar Ganguli, following was held:-

“82. A perusal of Section 320 makes it clear that the provisions contained in Section 320 and the various sub-sections is a code by itself relating to compounding of offence. It provides for the various parameters and procedures and guidelines in the matter of compounding. If this Court upholds the contention of the appellant that



**CRM-14636-2025 in/and
CRR-248-2025 (O & M)**

5

as a result of incorporation of Section 147 in the NI Act, the entire gamut of procedure of Section 320 of the Code are made inapplicable to compounding of an offence under the NI Act, in that case the compounding of offence under the NI Act will be left totally unguided or uncontrolled. Such an interpretation apart from being an absurd or unreasonable one will also be contrary to the provisions of Section 4(2) of the Code, which has been discussed above. There is no other statutory procedure for compounding of offence under the NI Act. Therefore, Section 147 of the NI Act must be reasonably construed to mean that as a result of the said section the offences under the NI Act are made compoundable, but the main principle of such compounding, namely, the consent of the person aggrieved or the person injured or the complainant cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.”

11. Consequently, in view of the above discussion and the compromise, the present petition is allowed and consequently, the offence under Section 138 of NI Act is compounded and the judgment of conviction and order of sentence dated 14.12.2022 passed against the petitioner by learned Judicial Magistrate Ist Class, Moga as well as impugned judgment dated 18.10.2023 passed by learned Additional Sessions Judge, Moga are hereby set aside along with all subsequent proceedings arising therefrom. The petitioner is acquitted of the notice of accusation issued against him and his bail/surety bonds stand discharged.

12. The jail authorities are directed to release the petitioner immediately, if not required in any other case.

**(HARPREET SINGH BRAR)
JUDGE**

April 21, 2025
manisha

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No