



**207 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

1. CRM-M-7295-2022 (O&M)
Date of Decision: 26.05.2025
SANJEEV KUMAR ...Petitioner

V/S

STATE OF HARYANA AND ANOTHER ...Respondents

2. CRM-M-58408-2022 (O&M)
Date of Decision: 26.05.2025
SANJEEV KUMAR ...Petitioner

V/S

STATE OF HARYANA AND ANOTHER ...Respondents

3. CRM-M-58409-2022 (O&M)
Date of Decision: 26.05.2025
SANJEEV KUMAR ...Petitioner

V/S

STATE OF HARYANA AND ANOTHER ...Respondents

4. CRM-M-7299-2022 (O&M)
Date of Decision: 26.05.2025
SANJEEV KUMAR ...Petitioner

V/S

STATE OF HARYANA AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shlok Dalal, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG Haryana.

Mr. M.S. Kathuria, Advocate
for respondent(s) No. 2.

HARPREET SINGH BRAR J. (Oral)
CRM-12273-2023 in/and CRM-M-7295-2022, CRM-12278-2023 in/and
CRM-M-58408-2022, CRM-12272-2023 in/and CRM-M-58409-2022 and
CRM-12271-2023 in/and CRM-M-7299-2022

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All these applications are filed under Section 147 of Negotiable Instruments Act, 1881 read with Section 482 of Cr.P.C. for compounding the offence under Section 138 of Negotiable Instruments Act, 1881.

Main cases

1. These petitions have been filed seeking setting aside/quashing of the orders(s) dated 14.02.2020 and 19.02.2021 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner and impugned order dated 26.11.2021 (Annexure P-4) vide which proclamation under Section 82 Cr.P.C. was issued against the petitioner in complaint No. COMA 436 dated 12.08.2016 registered under Section 138 of Negotiable Instruments Act, 1881 and 420 of IPC, in CRM-M-7295-2022; further the order dated 11.11.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner in COMA 437 dated 12.08.2016 under Section 138 of Negotiable Instruments Act, 1881 and Section 420 of IPC, in CRM-M-58408-2022; further the order dated 11.11.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh, vide which non-bailable warrants were issued against the petitioner in COMA No. 438 dated 12.08.2016 under Section 138 of Negotiable Instruments Act, 1881 and 420 of IPC in CRM-M-58409-2022; and order dated 26.11.2021(Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner in COMA No. 439 dated 12.08.2016 filed under Section 138 of Negotiable Instruments Act, 1881 and Section 420 of IPC in CRM-M-7299-2022.

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2. Learned counsel for the applicant-petitioner(s) submits that due to the financial losses suffered by the applicant during Covid-19, he could not entire amount to respondent No. 2. However, petitioner(s) has paid the entire amount to respondent No. 2 as per the settlement.

3. Learned counsel for respondent No. 2 submits that he has received the entire settled amount and nothing is due towards applicant-petitioner(s), in all four cases, and he has no objection, in case the present applications along with all the main cases are allowed and the offence under Section 138 of Negotiable Instruments Act, 1881 is compounded qua the petitioner and petitioner is acquitted of the notice of accusation framed against him.

4. On 13.02.2023, following order was passed in CRM-M-7295-2022 and CRM-M-7299-2022:

“Learned counsel for the petitioner(s) submits that in pursuance of order dated 23.12.2022, passed in connected cases, being CRM-M-58408-2022 and CRM-M-58409-2022, today the petitioner has brought four cheques bearing No.000007 dated 13.02.2023, No.000008 dated 13.02.2023, No.000009 dated 15.03.2023 and No.000010 dated 03.04.2023, amounting to Rs.3,00,000/-, Rs.3,00,000/-, Rs.3,00,000/- and Rs.3,10,000/-, respectively (total amounting to Rs.12,10,000/-), in favour of respondent No.2, drawn on Kotak Mahindra Bank, in Court today, and the same have been handed over to learned counsel for respondent No.2. Copies of the said cheques are supplied by learned counsel for the petitioner(s) in Court today itself, which are taken on record, subject to all just exceptions.

The aforesaid fact is also not disputed by learned counsel appearing for respondent No.2 (in both the cases), who further submits that the matter has been amicably resolved between the parties concerned.

At this stage, learned counsel for the petitioner(s) seeks an accommodation to file the application(s) for compounding of the offences in the present cases.

At his request, adjourned to 21.02.2023.

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Photocopy of this order be placed on the file of above mentioned connected case.”

5. In compliance of aforesaid order, present applications for compounding the offence under Section 138 of NI Act have been moved on 15.03.2023 and vide order dated 03.05.2025 the jurisdictional police authorities were directed to verify and file compliance report with regard to acceptance of entire amount by respondent No. 2 and also to ascertain, as to whether the dispute between the parties has been amicably resolved or not.

6. In compliance thereof, compliance report by way of affidavit of Rajneesh Kumar, HPS, Deputy Superintendent of Police, Sampla, District Rohtak has been filed on behalf of respondent No. 1-State of Haryana. Same is taken on record. Be tagged at the appropriate place.

7. Learned State counsel refers the aforesaid compliance report and submits that the statement of the petitioner(s) as well as respondent(s) No. 2 was recorded and it transpires that respondent(s) No. 2 has received full and final amount as per the compromise and nothing is due towards the petitioner(s).

8. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

9. 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. 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.

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“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

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procedures and guidelines in the matter of compounding. If this Court upholds the contention of the appellant that 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.”

12. In view of the aforesaid discussion, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and the orders(s) dated 14.02.2020 and 19.02.2021 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner and impugned order dated 26.11.2021 (Annexure P-4) vide which proclamation under Section 82 Cr.P.C. was issued against the petitioner in complaint No. COMA 436 dated 12.08.2016 registered under Section 138 of Negotiable Instruments Act, 1881 and 420 of IPC, in CRM-M-7295-2022; further the order dated 11.11.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner in COMA 437 dated 12.08.2016 under Section 138 of Negotiable Instruments Act, 1881 and Section 420 of IPC, in CRM-M-58408-2022; further the order dated 11.11.2022 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh, vide which non-bailable warrants were issued against the petitioner in COMA No. 438

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dated 12.08.2016 under Section 138 of Negotiable Instruments Act, 1881 and 420 of IPC in CRM-M-58409-2022; and order dated 26.11.2021(Annexure P-3) passed by learned Judicial Magistrate Ist Class, Bahadurgarh vide which non-bailable warrants were issued against the petitioner in COMA No. 439 dated 12.08.2016 filed under Section 138 of Negotiable Instruments Act, 1881 and Section 420 of IPC in CRM-M-7299-2022, along with all the main complaint(s) bearing COMA No. 436, 437, 438 and 439 dated 12.08.2016 are hereby quashed/set aside, qua the petitioner(s) and the petitioner stands discharged. Accordingly, present applications as well as main petitions are allowed.

13. Pending CRM(s), if any, are also disposed of accordingly.

14. A photocopy of this order be placed on the file of other connected cases.

26.05.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No