

**CRR-493-2023 (O&M)****-1-****260 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH****CRR-493-2023 (O&M)
Date of Decision: 15.05.2025****JAGTAR SINGH****...Petitioner****V/S****HDFC BANK LIMITED****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. L.S. Sekhon, Advocate for Mr. Rajdeep Singh Gill, Advocate
for the petitioner.

Mr. Sukhdeep Singh, Advocate for
Mr. ADS Sukhija, Advocate for respondent-bank.

**********HARPREET SINGH BRAR J. (Oral)**

1. Prayer in this petition is for setting aside the judgment dated 10.10.2022 passed by learned Additional Sessions Judge, Ludhiana vide which the judgment of conviction and order on quantum of sentence dated 10.08.2018 passed by learned Judicial Magistrate Ist Class, Ludhiana have been partly upheld, and the petitioner has been convicted under Section 138 of Negotiable Instruments Act and his sentence awarded by the trial Court for undergoing rigorous imprisonment for 02 years with compensation of Rs. 61,300/- to be paid to the complainant was reduced to rigorous imprisonment for one year, however, the compensation part was ordered to remain intact in complaint bearing No. COMA 43906 of 2013 titled as ***HDFC Bank Ltd. Vs. Jagtar Singh.***

2. Learned counsel for the petitioner *inter alia* contends that petitioner was convicted under Section 138 of Negotiable Instruments Act, 1881 and awarded rigorous imprisonment for 02 years with compensation of Rs. 61,300/- to be paid to the complainant, by the learned trial Court.

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Thereafter, the petitioner preferred an appeal before the learned Additional Sessions Judge, Ludhiana and learned lower Appellate Court vide judgment dated 10.10.2022 reduced the sentence of the petitioner from 02 years to 01 year. During the pendency of present petition, the petitioner has repaid the entire amount to the satisfaction of respondent-bank. Learned counsel for the petitioner further submits that offence under Section 138 of Negotiable Instruments Act, 1881 is compoundable in nature, as such, the conviction of petitioner may be set aside in view of the fact that respondent-bank has been duly compensated.

3. Learned counsel for respondent-bank affirms the aforesaid fact that petitioner has paid the settled amount to respondent-bank and respondent has no objection in case the offence under Section 138 of Negotiable Instruments Act, for which petitioner has been convicted, is compounded and petitioner is acquitted of the notice of accusation framed against him.

4. 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.

5. 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.



6. 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 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.....

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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.”

7. Moreover, a two Judge Bench of the Hon'ble Supreme Court in ***JK Industries Limited and others Vs. Amar Lal V. Jumanji 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 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.”

8. In view of the aforesaid discussion, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and judgment dated 10.10.2022 passed by learned Additional Sessions Judge, Ludhiana and judgment of conviction and order on quantum of sentence dated 10.08.2018 passed by learned Judicial Magistrate Ist Class, Ludhiana are quashed/set aside, qua the petitioner and the petitioner is acquitted of the notice of accusation framed against him. His bail bonds and surety bonds stand discharged. Accordingly, present petition is allowed.

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

(HARPREET SINGH BRAR)
JUDGE

15.05.2025

Ajay Goswami

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