



CRR Nos. 462, 463, 465 & 466 of 2024

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

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Decided on: January 07, 2025

1.

CRR-462-2024
(arising out of Complaint u/s 138 of the NIA, 1881, bearing No. NACT/38781-2019, dated 10.04.2019, and Criminal Appeal No. CRA-399-2023, District Gurugram)

Sachin Jain

.....Petitioner

Versus

Satya Pal (deceased) through LR Parishit Siwach

.....Respondent
2.

CRR-463-2024
(arising out of Complaint u/s 138 of the NIA, 1881, bearing No. NACT/14174-2019, dated 10.04.2019, and Criminal Appeal No. CRA-398-2023, District Gurugram)

Sachin Jain

.....Petitioner

Versus

Satya Pal (deceased) through LR Parishit Siwach

.....Respondent
3.

CRR-465-2024
(arising out of Complaint u/s 138 of the NIA, 1881, bearing No. NACT/14171-2019, dated 10.04.2019, and Criminal Appeal No. CRA-400-2023, District Gurugram)

Sachin Jain

.....Petitioner

Versus

Satya Pal (deceased) through LR Parishit Siwach

.....Respondent
4.

CRR-466-2024
(arising out of Complaint u/s 138 of the NIA, 1881, bearing No. NACT/14170-2019, dated 10.04.2019, and Criminal Appeal No. CRA-401-2023, District Gurugram)

Sachin Jain

.....Petitioner

Versus

Satya Pal (deceased) through LR Parishit Siwach

.....Respondent

**CRR Nos. 462, 463, 465 & 466 of 2024****2****CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**********

Present: Mr. Saurabh Gautam, Advocate, and
Mr. Anil Chauhan, Advocate,
for the petitioner.

None for the respondent.

**********SANJAY VASHISTH, J.**

1. By this common judgment, four criminal revision petitions, bearing CRR Nos. 462, 463, 465 and 466, all of 2024, shall be decided.
2. The aforementioned revision petitions have been filed by accused/convict/petitioner – Sachin Jain, against judgment(s) of conviction, dated 02.06.2023, and order(s) of sentence, dated 06.06.2023, passed by the Trial Court, in respective complaint cases filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). Challenge has also been made to the judgment(s) dated 16.01.2024, passed by the first Appellate Court, vide which four separate appeals preferred by the revision petitioner have been dismissed.
3. In brief the facts are that complainant – Satya Pal (since deceased) had instituted four complaint cases, under Section 138 of the Act, by pleading that the accused/petitioner being his old friend requested for advancement of personal loan, amounting to Rs.25,00,000/- and Rs.5,00,000/- on the pretext of urgent and compelling business and personal needs. The said loan amounts were to be repaid within one year. Considering request of the accused/petitioner, complainant advanced the money through different cheques, which were issued in favour of Smt. Shalu Jain, wife of



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the accused/petitioner, and different amounts were also paid in cash in presence of Shri Vijay Pal. The accused/petitioner also issued different cheques to the complainant – Satya Pal, to discharge the legally enforceable liability. When the cheques issued by the accused/petitioner were presented to the banks, the same were dishonoured and bounced. Consequently, the complainant filed four complaint cases under Section 138 of the Act.

4. After completion of pleadings and analyzing the evidence, learned Trial Court found the accused/petitioner guilty of the offence punishable under Section 138 of the Act, in all the four complaint cases, vide separate judgments dated 02.06.2023. Subsequently, vide separate orders of sentence, the accused/petitioner was sentenced to undergo simple imprisonment as under:-

Criminal Revision No.	Complaint Case No.	Sentence	Compensation Amount	In Default of payment of compensation amount
462-2024	NACT-38781-2019	06 months simple imprisonment	Rs. 7,50,000/-, to be paid within two months from the date of judgment	Recoverable under the provisions of Section 421 Cr.P.C.
463-2024	NACT-14174-2019	06 months simple imprisonment	Rs. 12,00,000/-, to be paid within two months from the date of judgment	Recoverable under the provisions of Section 421 Cr.P.C.
465-2024	NACT-14171-2019	06 months simple imprisonment	Rs. 12,00,000/-, to be paid within two months from the date of judgment	Recoverable under the provisions of Section 421 Cr.P.C.



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466-2024	NACT-14170-2019	06 months simple imprisonment	Rs. 13,50,000/-, to be paid within two months from the date of judgment	Recoverable under the provisions of Section 421 Cr.P.C.
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5. Feeling aggrieved, the accused/petitioner preferred four criminal appeals against the respective judgments of conviction and orders of sentence, passed by the Trial Court, which were dismissed by the learned first Appellate Court, vide separate judgments dated 16.01.2024. Hence, these four criminal revision petitions.

6. On 12.03.2024, when these revision petitions came up for consideration before a Co-ordinate Bench of this Court, it was noticed that even after dismissal of the appeals by the Additional Sessions Judge, Gurugram, the revision petitioner had chosen not to surrender and approached this Court (Punjab and Haryana High Court) by way of revision petitions. Accordingly, while adjourning the cases to 09.04.2024, time was granted to learned counsel for the petitioner to seek information as to within how much time he would be able to surrender before the jail authorities/Court concerned.

7. On 09.04.2024, on the written request made on behalf of the counsel for the petitioner, the cases were further adjourned to 03.07.2024. And, on 03.07.2024 the Court was informed that the petitioner has entered into the compromise with the complainant/respondent. On the question of complying with the order dated 12.03.2024 regarding surrender of the petitioner, it was stated that he had moved applications for suspension of sentence and was not ready to surrender. Mr. Gourav Jaglan, Advocate,

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appeared on behalf of the respondent and the matter was adjourned to 31.07.2024, and thereafter further adjourned to 13.08.2024. On 13.08.2024, a Co-ordinate Bench of this Court passed the following order:-

*“CRR-462-2024 (O&M),
CRR-463-2024 (O&M)
CRR-465-2024 (O&M) and
CRR-466-2024 (O&M)*

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Present:- Mr. Saourabh Gautam, Advocate, for the petitioner.

None for the respondent.

Learned counsel for the petitioner states that petitioner has already settled the matter and now he is ready to deposit the cheque amount as compounding fee.

In view of the statement of the learned counsel for the petitioner, let the parties to appear before the trial Court/Illaqa Magistrate, within a period of 10 days from today, for getting their statements recorded with regard to the compromise by moving an application or presenting this order. The statements of the parties with regard to the compromise may be recorded on the same day or on any other day convenient to trial Court/Illaqa Magistrate but not later than six days thereof. Trial Court is directed to report on the following points:-

(i) how many total accused are facing the trial;

*(ii) whether challan is presented in the Court?
If so, against how many accused;*

(iii) whether any of the accused was declared proclaimed offender at any stage of trial;

(iv) status/stage of the trial/case;

(v) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;



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(vi) to record the statement of Investigating Officer with regard to points No. (I), (ii), (iii) and (iv) as above.

Report be sent through the District & Sessions Judge, before the next date of hearing.

Adjourned to 28.10.2024.

The petitioner shall deposit 15% of the cheque amount as compounding fee with the concerned District Legal Services Authority on or before the date of recording of their statements and present a copy of receipt before the trial Court/Illaqa Magistrate.

Meanwhile, arrest of the petitioner shall remain stayed.

A photocopy of this order be placed on the file of each connected case.

*Sd/-
(GURBIR SINGH)
JUDGE*

13.08.2024”

8. Pursuant to the order dated 13.08.2024, the petitioner deposited 15% of the cheque amount(s) with the District Legal Services Authority, Gurugram, as detailed hereunder:-

Criminal Revision No.	Complaint Case No.	Amount Deposited (in Rs.)
462-2024	NACT-38781-2019	75000
463-2024	NACT-14174-2019	120000
465-2024	NACT-14171-2019	120000
466-2024	NACT-14170-2019	135000
	Total	450000

The parties i.e. Sachin Jain (accused/petitioner) and Parikshit Siwach (being LR & son of complainant - Satya Pal) also appeared before

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Judicial Magistrate First Class, Gurugram, on 29.08.2024 and got recorded their statements qua compromise. Report alongwith statements, dated 29.08.2024, in this regard, has also been received through District and Sessions Judge, Gurugram, vide letter No. 4097/C-29, dated 25.09.2024.

It is also worthwhile to mention here that the applications filed by the petitioner for suspension of sentence in these revision petitions were also allowed, vide orders dated 18.12.2024, passed by a Co-ordinate Bench of this Court.

9. Mr. Saurabh Gautam, learned counsel for the petitioner submits that as against the total amount of Rs. 30,00,000/- pertaining to four complaints, the petitioner has already resolved the dispute amicably with the LR of complainant, and an amount of Rs. 16,00,000/- has already been paid to him. Other than this, the petitioner has also deposited 15% of the compensation amount, i.e. total Rs. 4,50,000/-, with the District Legal Services Authority, Gurugram. Learned counsel also furnished copies of the receipts of deposit of said amount, which are taken on record. Registry to tag the same at appropriate place of the file.

Learned counsel further submits that in view of the fact that the parties have compromised the matter amicably, and entire settled amount in terms of the compromise has already been paid by the accused/petitioner, therefore, this matter be compounded in terms of the Act and the consequential proceedings arising thereof be quashed. In support of his submission, learned counsel has placed reliance on the judgment of Hon'ble Apex Court in the case of **Damodar S. Prabhu v. Sayed Babalal H., (2010)**

5 SCC 663 : Law Finder Doc Id # 209808, and judgment of Himachal

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Pradesh High Court in the case of **Tara Chand v. Rakesh Kashyap, 2019**

(3) R.C.R. (Criminal) 764 : Law Finder Doc Id # 1535809.

10. I have heard learned counsel for the petitioner and gone through the material available on record. Perusal of the report and the statements got recorded by respective parties would reveal that the parties have settled the dispute amicably and the compromise arrived at between them appears to be voluntary and without any pressure. Parikshit Siwach, who is LR and son of the complainant – Satya Pal has entered into the compromise and made his statement voluntarily admitting receipt of the settled amount of Rs.16,00,000/-. The accused/petitioner has also deposited 15% of the cheque amount, as detailed hereabove, with the District Legal Services Authority, Gurugram.

11. The matter is no longer *res integra* and the position of law as regards compounding of offence under Section 138 of the Act is well settled. In the case of **Damodar S. Prabhu (supra)**, two appeals in respect of litigation involving the offence enumerated under Section 138 of the Act, were involved where the parties have arrived at a settlement and prayed for the compounding of the offence as contemplated by Section 147 of the Act. The parties were involved in commercial transactions and disputes had arisen on account of the dishonour of cheques. Thereafter, the parties went through the several stages of litigation before their dispute reached the Hon'ble Apex Court. The appellant prayed for the setting aside of his conviction by relying on the consent terms that have been arrived at between the parties. The respondent has not opposed this plea, and their Lordships' of



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Hon'ble Apex Court allowed compounding of the offence and set aside the conviction.

Further, by taking up larger issues as regards the offence punishable under Section 138 of the Act as well as the question as to whether the said offence is compoundable under Section 147 of the Act at later stage as a last resort, three Judges Bench of Hon'ble Apex Court, after discussing earlier judgments of Hon'ble Supreme Court passed in the cases of O.P. Dholakia v. State of Haryana, (2000) 1 SCC 672, Sivasankaran v. State of Kerala & Anr., (2002) 8 SCC 164, Kishore Kumar v. J.K. Corporation Ltd., (2004) 12 SCC 494, Sailesh Shyam Parsekar v. Baban, (2005) 4 SCC 162, Vinay Devanna Nayak v. Ryot Sewa Sahakari Bank Ltd., (2008) 2 SCC 305, R. Rajeshwari v. H.N. Jagadish, (2008) 4 SCC 82, K.M. Ibrahim v. K.P. Mohammed & Anr., 2009 (14) SCALE 262, has laid down certain guidelines with regard to the progression of litigation in cheque bouncing cases, which reads as under:-

“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.*

22. *Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority.*

23. *We are also in agreement with the Learned Attorney General's suggestions for controlling the filing of multiple complaints that are relatable to the same transaction. It was submitted that complaints are being increasingly filed in multiple jurisdictions in a vexatious manner which causes tremendous harassment and prejudice to the drawers of the cheque. For instance, in the same transaction pertaining to a loan taken on an installment basis to be repaid in equated monthly installments, several cheques are taken which are dated for each monthly installment and upon the dishonor of*



each of such cheques, different complaints are being filed in different courts which may also have jurisdiction in relation to the complaint. In light of this submission, we direct that it should be mandatory for the complainant to disclose that no other complaint has been filed in any other court in respect of the same transaction. Such a disclosure should be made on a sworn affidavit which should accompany the complaint filed under Section 200 of the Criminal Procedure Code. If it is found that such multiple complaints have been filed, orders for transfer of the complaint to the first court should be given, generally speaking, by the High Court after imposing heavy costs on the complainant for resorting to such a practice. These directions should be given effect prospectively.

24. We are also conscious of the view that the judicial endorsement of the above quoted guidelines could be seen as an act of judicial law-making and therefore an intrusion into the legislative domain. It must be kept in mind that Section 147 of the Act does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under Section 320 of the Criminal Procedure Code cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving Section 138 of the Act.

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. Bonafide litigants should of course contest the proceedings to their logical end.

26. Even in the past, this Court has used its power to do complete justice under Article 142 of the Constitution to frame guidelines in relation to subject-matter where there was a legislative vacuum.”

12. In view of the entirety of the facts of the case in hand, and settled proposition of law, I am of the considered opinion that continuation



of these proceedings will not serve any fruitful purpose. Therefore, I am of the considered opinion that this is a fit case where the inherent jurisdiction of the High Court under Section 482 Cr.P.C. read with Section 147 of the Act, is invoked to quash the criminal proceedings. Consequently, in view of the compounding of offences, the impugned judgment(s) of conviction and order(s) of sentence, passed by the Trial Court, as affirmed by the first Appellate Court, is set aside and quashed.

13. Needless to say that in compliance to the guidelines framed by the Hon’ble Apex Court in the case of **Damodar S. Prabhu (supra)**, compounding penalty quantified at 15% of the sum comprised in the dishonoured cheque(s), i.e. total Rs. 4,50,000/-, as detailed in para No. 8 above, has already been deposited by the petitioner with the District Legal Services Authority, Gurugram, therefore, nothing is required to be observed in that regard.

14. All the four criminal revision petitions and pending miscellaneous application(s), if any, are disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

January 07, 2025
Pk Kapoor

Whether speaking/reasoned?	✓	Yes/ No
Whether reportable?	✓	Yes/ No