



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

265

**CRR-522-2025 (O&M)**

**Date of decision: 07.05.2025**

Fine Computers through its Prop/Authorised Signatory Sagar Ghai  
....Petitioner

Versus

State of Haryana and another  
....Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

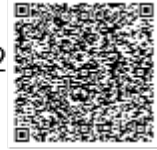
**Present:** Mr. Monu Sharma, Advocate  
for Mr. Rohit Mittal, Advocate  
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rajesh Lamba, Advocate  
for respondent No.2.

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

1. Present revision petition has been preferred against the judgment dated 18.02.2025 passed by learned Additional Sessions Judge, Faridabad, vide which the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 26.02.2018 passed by learned Judicial Magistrate 1<sup>st</sup> Class, Faridabad, in Complaint bearing No.RBT-1842, instituted on 24.02.2016/05.05.2017 filed under Sections 138, 141 & 142 of Negotiable Instruments Act, 1881 (for short 'the NI Act'), convicting him for an offence punishable under Section 138 of NI Act, to undergo simple imprisonment for a period of six months and to pay the compensation amount of Rs.3,80,875/- to the complainant, stands dismissed.



2. The brief facts of the case are that a complaint was filed by the respondent No.2/complainant against the petitioner under Sections 138, 141 and 142 of the Negotiable Instruments Act, 1881 (for short 'the NI Act') on the ground of dishonouring of four cheques, amounting to Rs.3,80,275/- against total bills amounting to Rs.4,80,275=00 issued in favour of the complainant/respondent No.2 by the petitioner in discharge of the liability.

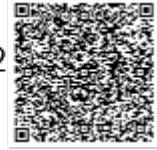
3. On 27.02.2025, the following order was passed by this Court:-

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CRR-522-2025

*Present revision petition has been preferred against the judgment dated 18.02.2025 passed by learned Additional Sessions Judge, Faridabad, vide which the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 26.02.2018 passed by learned Judicial Magistrate 1st Class, Faridabad, in Complaint bearing No.RBT-1842, instituted on 24.02.2016/05.05.2017 filed under Sections 138, 141 & 142 of Negotiable Instruments Act, 1881 (for short 'NI Act'), convicting him for an offence punishable under Section 138 of NI Act, to undergo simple imprisonment for a period of six months and to pay the compensation amount of Rs.3,80,875/- to the complainant, stands dismissed.*

*Learned counsel for the petitioner, inter alia, contends that the petitioner has been convicted and awarded simple imprisonment for a period of six months for an offence punishable under Section 138 of NI Act. It is further contended that the petitioner has already paid an*



*amount of Rs.1,90,000/- to complainant-respondent No.2 before learned lower appellate Court and the said amount has been released in its favour by the Court concerned.*

*Today, the petitioner has brought a demand draft dated 21.02.2025 of Rs.1,91,000/- drawn in favour of complainant-respondent No.2. Photocopy of the same is retained on the case file for further reference.*

*Learned counsel for the petitioner further contends that the offence under Section 138 of NI Act is compoundable in nature. The petitioner has paid the entire amount of compensation, as awarded by learned trial Court, to complainant-respondent No.2.*

*Notice of motion for 07.05.2025.*

*Process dasti as well.*

*In the meantime, sentence of the petitioner shall remain suspended subject to furnishing his bail/surety bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate concerned.*

*The petitioner is directed to deposit the aforesaid demand draft of Rs.1,91,000/- with the Registry of this Court within a week.”*

4. Learned counsel for the petitioner, *inter alia*, contends that the matter has been settled between the parties. He further submits that the petitioner has already paid an amount of Rs.1,90,000/- to complainant/respondent No.2, before the learned Lower Appellate Court and the said amount has been duly released in his favour, by the Court concerned. Further, in compliance of the order dated 27.02.2025 passed by this Court, the petitioner has also deposited the demand draft of



Rs.1,91,000/- drawn in favour of the complainant/respondent No.2, with the Registry of this Court.

5. Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in ***Ghanshyam Gautam and another vs. Usha Rani (since deceased) through LRs, 2024(1) CriCC 564***, to contend that once the compromise has been effected and the settled amount has been received by the complainant, the offence under Section 138 of the NI Act can be compounded. Lastly, learned counsel for the petitioner contends that he has no objection if the aforesaid demand draft of Rs.1,91,000/- deposited with the Registry of this Court, is released in favour of the complainant/respondent No.2.

5. Learned counsel for respondent No.2/complainant also submits that he has no objection if the offence under Section 138 of the NI Act is compounded and the petitioner is acquitted of the notice of accusation framed against him.

6. I have heard learned counsel for the parties and perused the paperbook with their able assistance.

7. 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.



8. Moreover, 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.”*

9. Moreover, a two Judge Bench of the Hon’ble Supreme Court in **“JIK Industries Limited and others vs. Amar Lal V. Jumaní 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.”*

10. Consequently, in view of the discussions made hereinabove, the present revision petition is **allowed**. The judgment of conviction and the order of sentence dated 26.02.2018 passed by learned Judicial Magistrate Ist Class, Faridabad as well as impugned judgment dated 18.02.2025 passed by learned Additional Sessions Judge, are



hereby set-aside. The petitioner is acquitted of the notice of accusation and his bail bonds and surety bonds also stand discharged.

11. The Registry is directed to release the demand draft dated 21.02.2025 of Rs.1,91,000/- drawn in favour of complainant/respondent No.2, to Mr. Rajesh Lamba, Advocate, learned counsel appearing for respondent No.2, against a proper receipt.

12. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET SINGH BRAR)  
JUDGE

07.05.2025

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