

**CRR-375-2021 (O&M)****-1-****281 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR-375-2021 (O&M)****Date of decision: 10.12.2025****JASWINDER SINGH****...PETITIONER****VERSUS****YADVINDER SINGH AND ANR.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Rahul Dev Singh, Advocate for the petitioner.

Mr. Akshit Dhiman, Advocate for respondent No.1.

Ms. Simran Gorla, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed by the petitioner impugning the order dated 16.03.2020 passed by the learned Additional Sessions Judge, Patiala, whereby, the appeal filed by the petitioner was dismissed upholding the judgment of conviction and order of sentence dated 01.05.2019 passed by the learned JMJC, Patiala.

2. The case as enumerated from the facts is that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act) was filed against the petitioner by respondent No.1 on the allegations that respondent No.1 purchased a Hyundai Verna car Model 2008, bearing HR-41-C-3389 from petitioner and took entire price of the car i.e. Rs.4,35,000/-. The said car could not be transferred in the name of respondent No.1 due to some fault, so petitioner took back Hyundai car from respondent No.1 and in exchange of that, another car- Mahindra Logan was given to respondent No.1 but that too could not be transferred due to some defect in the ownership documents. Thereafter, in

**CRR-375-2021 (O&M)****-2-**

exchange another car Chevorlet Captiva Model 2008 was given to respondent No.1 and that also could not be transferred. On 10.09.2015, the petitioner took back the Chevorlet Captiva car from respondent No.1 and agreed to return the whole amount i.e. Rs.4,35,000/-. In order to discharge his liability, the petitioner issued a cheque bearing No.128718 dated 09.10.2015 amounting to Rs.4,35,000/- drawn on State Bank of Patiala, which on presentation by the complainant-respondent No.1 returned with the remarks 'Funds Insufficient'. Thereafter, the respondent No.1 served legal notice dated 04.01.2016 upon the petitioner, but despite that he failed to make the payment and ultimately complaint was filed. After trial, the trial Court convicted the petitioner and sentenced him to undergo rigorous imprisonment for a period of 01 year. Aggrieved by the conviction and sentence awarded by learned JMIC, Patiala, the petitioner assailed the same by way of filing an appeal before the learned Appellate Court. Learned Appellate Court, finding no merit in the appeal, dismissed the same by upholding the conviction and sentence of the petitioner vide its order dated 16.03.2020. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

3. Learned counsel for the petitioner has submitted that now the parties have settled the dispute and entire amount has been paid by the petitioner to the complainant-respondent No.1 and now nothing is due against him. He further submits that in view of the settlement effected between the parties, the petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Act and the orders under challenge in the present revision petition be set aside. He has placed reliance on the law laid down by Hon'ble Supreme Court in **Raj Reddy Kallem vs. The State of Haryana and another,**

**CRR-375-2021 (O&M)****-3-**

seek the compounding of the offence at later stage of criminal proceedings including after conviction.

4. Learned counsel for the respondent No.1 has affirmed the contentions raised by learned counsel for the petitioner with regard to the settlement and has submitted that complainant-respondent No.1 has no objection, if the present petition is allowed and the orders under challenge are set aside/quashed.

5. This Court has heard learned counsel for the parties and perused the record with their able assistance.

6. As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioner, who has already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent No.1-complainant. In ***Raj Reddy Kallem's case (supra)***, it has been held that the accused must try for compounding of the offence at the initial stages instead of later stages, however, there is no bar to seek the compounding of offence at later stage of criminal proceedings including after conviction.

7. That the Hon'ble Supreme Court in Judgement of '**Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (Crl.)**' has issued certain guidelines to deposit certain amount when the compounding is effected at a belated stage in matters pertaining to Negotiable Instruments Act however, in a recent Judgement of Hon'ble Supreme Court in **Rajeev Khandelwal Versus State of Maharashtra and another**, has been held that the conditions laid down in the ***Damodar S. Prabhu Versus Sayed Babalal H. Case (supra)*** do not constitute binding precedents and theld as under:-

“The law laid down in the aforementioned judgment cannot be regarded as a binding precedent, as every case must be considered on its own facts. In the present case, we are inclined to hold that the

**CRR-375-2021 (O&M)****-4-**

direction imposing costs on the appellant, to be paid to the Legal Services Authority cannot be sustained in the eye of law, particularly when the 3 complainant does not want any further amount and the appellant has expressed his inability to comply with the same, which aspect is not in dispute.”

8. So keeping in view above facts and the law settled by Hon’ble Supreme Court, the petitioner is allowed to compound the offence and he is ordered to be acquitted of the charges framed against him. As consequences, the order dated 16.03.2020 passed by learned Additional Sessions Judge, Patiala and order dated 01.05.2019 passed by learned Judicial Magistrate Ist Class, Patiala convicting and sentencing the petitioner under Section 138 of the NI Act, are set aside.

9. Revision petition is allowed in above terms and the pending applications are also disposed of.

10.12.2025
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(RAJESH BHARDWAJ)
JUDGE

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