

CRR-1019-2019 (O&M)

-1-

255 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-1019-2019 (O&M)

Date of Decision: 16.01.2025

AVTAR SINGH

...Petitioner

V/S

KULWINDER GROVER AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Davinder Kumar, Advocate for respondent No. 1.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. Present criminal revision petition is filed against the judgment dated 03.11.2018 passed by learned Additional Sessions Judge, Bathinda vide which judgment of conviction and order on quantum of sentence dated 23.02.2018 passed by learned Judicial Magistrate Ist Class, Bathinda convicting the petitioner under Section 138 of Negotiable Instruments Act and awarding him rigorous imprisonment for one year and six months with compensation of Rs. 2,10,000/- along with interest @ 9% per annum to be paid to the complainant, have been upheld.

2. Learned counsel for the petitioner *inter alia* contends that petitioner has been convicted under Section 138 of Negotiable Instruments Act and 01 year and 06 months of rigorous imprisonment was awarded to him and he was also directed to pay compensation to the tune of Rs. 2,10,000/- by the learned Court below. Learned counsel for the petitioner further submits that the matter already stands compromised between the parties and the offence under Section 138 of Negotiable Instruments Act is



CRR-1019-2019 (O&M)

-2-

compoundable in nature. Both the parties are present in the Court along with their respective counsel(s) and an affirm to this fact.

3. Mr. Davinder Kumar, Advocate puts in appearance on behalf of respondent No. 1-complainant along with respondent No. 1, who is present in person, and affirms the factum of the compromise and submits that respondent No. 1 has no objection in case the offence under Section 138 of NI Act is compounded and the petitioner is acquitted of the notice of accusation the charge framed against him.

4. After giving my thoughtful consideration to the submissions put forth by all sides and on careful perusal of the material on record, it transpires that matter has been compromised between the parties. Hence, this Court is inclined to accept the prayer made by the petitioner.

5. Pertinently, 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



CRR-1019-2019 (O&M)

-3-

that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable..... xxxx xxxx xxxx

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.”

6. In view of the above discussion, the present petition is allowed and consequently, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and judgment dated 03.11.2018 passed by learned Additional Sessions Judge, Bathinda and judgment of conviction and order on quantum of sentence dated 23.02.2018 passed by learned Judicial Magistrate Ist Class, Bathinda are hereby set aside and petitioner is acquitted of the notice of accusation framed against him. His bail bonds and surety bonds stand discharged.

7. Present revision petition is disposed of in aforesaid terms.

8. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

16.01.2025
Ajay Goswami

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