

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

2025:PHHC:126878



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CRR-840-2025 (O&M)

Date of decision: 15.09.2025

Rajbala

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Ashu Rana, Advocate for
Ms. Suman Beniwal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana
for respondent No.1.

Mr. B.S. Beniwal, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed impugning the judgment dated 21.03.2025 passed by the learned Additional Sessions Judge, Fatehabad & the judgment as also the order of sentence dated 05.11.2024 passed by Judicial Magistrate Ist Class, Fatehabad whereby the petitioner has been convicted and sentenced for offence under Section 138 of Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner has submitted that, during the pendency of proceedings, the petitioner and the complainant have entered into a settlement/compromise dated 24.03.2025 (copy whereof has been appended as Annexure P-1 with the present petition). Learned counsel for the petitioner has submitted that, since the parties have amicably settled their dispute(s), the matter may be compounded and the petitioner be acquitted.

3. On 28.03.2025, the following order was passed:

“This petition has been filed praying for setting aside the judgment of conviction and order of sentence dated 05.11.2024 passed by

JMIC, Fatehabad as well as judgment dated 21.03.2025 passed by Addl. Sessions Judge, Fatehabad and the petitioner be acquitted of the charge against her.

Learned counsel for the petitioner submits that the petitioner has entered into a compromise executed on 25.03.2025 with the complainant.

Learned counsel for the complainant is also in agreement with the statement made by counsel for the petitioner regarding the compromise to which he has no objection if the revision petition is allowed.

Notice of motion.

On the asking of the Court, learned State Counsel accepts notice on behalf of respondent No.1-State.

Mr. B.S. Beniwal, Advocate has put in appearance on behalf of respondent No.2 and has filed Vakalatnama. He admits the factum of compromise entered into between the parties.

List on 01.05.2025.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court within a period of one week from today, for recording of their statements with regard to the compromise.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:

- (i) Number of persons arrayed as accused in the FIR;*
- (ii) Whether any accused is declared as proclaimed offender?*
- (iii) Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- (iv) Whether the accused persons are involved in any other FIR or not?*

In the meantime, the sentence of the petitioner shall remain suspended during the pendency of the revision petition subject to his furnishing personal/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned.”

4. Pursuant to the aforesaid order, report dated 02.04.2025 from Civil Judge (Jr. Division)-cum-Judicial Magistrate, Ist Class, Fatehabad, has been received, which is taken on record, relevant whereof reads as under:

“An application for recording the statements of the parties in the above noted complaint in compliance of order dated 28.03.2025 passed by Hon'ble High Court of Punjab & Haryana at

Chandigarh in CRR-840-2025 (O&M) titled as "Rajbala Vs. State of Haryana and Another" along with copy of said order has been moved by learned counsel for both the parties. The said order has been confirmed by Ahlmad of this Court. Report of Ahlmad received and perused. The said order has been perused. Vide said order dated 28.03.2025 passed by the Hon'ble High Court in CRR-840-2025 (O&M) (cited as subject), this court had been directed to record the statement of both the parties and to send the report with regard to validity of the compromise and report in this regard has been called within one week from 28.03.2025. In compliance of the said order, both the parties appeared before the Court for recording their statements. At this stage, complainant Balwant Ram made a statement that he has compromised the matter with the accused on 25.03.2025 without any fear, pressure or undue influence. He further submitted that he has received the compromised amount from the accused and now nothing is outstanding against the accused.

Thereafter, the accused namely Rajbala also made a separate statement that she has compromised the matter with the complainant on 25.03.2025. She further submitted that she has paid the compromised amount to the complainant and now nothing is outstanding towards the complainant. She further submitted that no FIR has been registered against her.

After recording the statement of complainant as well as accused, this court is of the considered view that both the parties have made their statements as per their own free will and without any pressure.

Accordingly, my point-wise report in the prescribed format is as under:

Name of the reporting Court	Joginder Jangra, Judicial Magistrate First Class, Fatehabad.
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1.	Number of persons arrayed as accused in FIR;	Nil
2.	Whether any accused is declared as Proclaimed Offender?	No
3.	Whether the compromise is genuine, voluntary and without any coercion or undue influence?	Yes
4.	Whether the accused persons are involved in any other FIR or not?	No

Original copy of the statements of the complainant and accused who were duly identified by their respective counsels are being transmitted to the Hon’ble High Court for further proceedings.”

5. Learned counsel appearing for the complainant-respondent No.2 has ratified the factum of compromise/settlement having been arrived at between the parties and has further vouched the genuineness of the compromise/settlement dated 24.03.2025 (copy whereof has been appended as Annexure P-1 with the instant petition). Accordingly, he has iterated that the respondent No.2-complainant has no objection in case the offence is permitted to be compounded and the petitioner is ordered to be acquitted.

6. Similarly, learned State counsel that he has no objection in case the offence is permitted to be compounded by this Court and the petitioner is ordered to be acquitted.

7. I have heard learned counsel for the rival parties and have perused the available record.

8. It would be apposite to refer herein to a judgment passed by three Judge Bench of the Hon'ble Supreme Court titled as ***Damodar S. Prabhu vs. Sayed Babalal H., AIR 2010(SC) 1907***, relevant whereof reads thus:

“15. 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.*

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.

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

17. 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 CrPC 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. 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. Bona fide litigants should of course contest the proceedings to their logical end. 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.”

8.1. Further the Hon’ble Supreme Court in a judgment titled as ***M/s New Win Export & Anr. vs. A. Subramaniam 2024 INSC 535 : 2024(3) Law Herald (SC) 2098***, relevant whereof reads as under:

*“6. At this juncture, we would also like to reiterate a few words regarding the principles of compounding of offences in the context of NI Act. It is to be remembered that dishonour of cheques is a regulatory offence which was made an offence only in view of public interest so that the reliability of these instruments can be ensured. A large number of cases involving dishonour of cheques are pending before courts which is a serious concern for our judicial system. Keeping in mind that the ‘compensatory aspect’ of remedy shall have priority over the ‘punitive aspect’, courts should encourage compounding of offences under the NI Act if parties are willing to do so. (See: **Damodar S. Prabhu v. Sayed Babalal H. (2010) 5 SCC 663 (Para 18)**, **Gimpex Private Limited v. Manoj Goel (2022) 11 SCC 705 (Para 29)**, **Meters And Instruments Private Limited And Anr. v. Kanchan Mehta (2018) 1 SCC 560 (Para 18.2)**)”*

8.2. The statutory provision of Section 359 of BNSS, 2023 and Section 147 of Negotiable Instruments Act, 1881 when examined alongwith Section 528 of BNSS, 2023 in the guiding light of the judgments of the Hon’ble Supreme Court in cases of ***Damodar S. Prabhu*** case (supra) and ***M/s New Win Export*** case (supra), lead to the unequivocal conclusion that the offence under Section 138 of Negotiable Instruments Act, 1881 can be compounded at all levels of the stage of litigation including when the matter has reached the High Court after being conclusively dealt with by the Magisterial as also the Sessions Court. In other words, such an offence can be compromised/compounded even after the petitioner-accused has been

convicted by the Court of learned Magistrate and his appeal against the same has been dismissed by the learned Sessions Court.

The Hon'ble Supreme Court in the judgment of ***Damodar S. Prabhu*** case (supra) has also enunciated that, ordinarily, costs ought to be imposed when the offence under Section 138 of Negotiable Instruments Act of 1881 is compounded at a stage when substantial proceedings have been undertaken by Courts so as to dissuade the unscrupulous litigant from unduly delaying the compounding of such offences. However, discretion has been reserved in favour of the concerned Court to reduce/waive off such costs, in case facts/circumstances of a given case so warrant.

8.3. Still further, the inherent jurisdiction of the High Court under Section 528 BNSS, 2023 is primarily aimed at preventing abuse of judicial process and securing the ends of justice. Thus, when the dispute is essentially personal in nature and a genuine compromise has been reached, the High Court may intervene to quash the conviction recognizing the continued proceedings would be non-productive and unjust in the given circumstances. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life-blood, its very essence, its immanent attribute. Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has in fact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of

jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfill the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words; Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as necessary whenever it is just and equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice nay substantial justice between the parties and to secure the ends of justice. Therefore, the High Court, in the exercise of its inherent power under section 528 BNSS, 2023 has the discretion to quash a conviction where the parties have reached an amicable settlement, provided such compromise does not impinge upon the public interest or undermine justice, as well as the substantial justice.

9. Reverting to the facts of the case in hand, it is not disputed by the concerned rival parties that an amicable settlement has been arrived at between them and, therefore, compounding of the offence and necessary further directions have been sought from this Court. A perusal of the compromise/settlement (copy whereof has been appended as Annexure P-1) reflects that the parties have sought to resolve their dispute(s) in *toto* and

bury the hatchet. Consequently, in the considered opinion of this Court, the factual matrix of the case requires that the offence(s) ought to be permitted to be compounded and the petitioner deserves to be acquitted.

9.1. Keeping in view the entirety attending facts/circumstances of the case; especially factum of the petitioner is in custody from the date of dismissal of his appeal on 21.03.2025 to 28.03.2025, the petitioner have faced the wrath of criminal litigation since about the year 2020, the petitioner is a lady aged 64 years saddled with the responsibility of his family and the petitioner being pleaded to be a first time offender and the petitioner being pleaded not to be belonging to affluent society; this Court does not deem it appropriate to saddle the petitioner with costs.

10. In view of the above, it is directed as under:-

- (i) The impugned judgment dated 21.03.2025 passed by the learned Additional Sessions Judge, Fatehabad & the judgment as also the order of sentence dated 05.11.2024 passed by Judicial Magistrate Ist Class, Fatehabad are set-aside and the petitioner is acquitted.
- (ii) No order as to costs.
- (iii) Pending application(s), if any, shall also stands disposed of.

(SUMEET GOEL)
JUDGE

September 15, 2025
Naveen

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