



CRR-1571-2009 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-1571-2009 (O & M)

Date of decision: 06.02.2025

Makhan Singh

.... Petitioner

V/s

State of Punjab and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rajiv Joshi, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

Mr. Amardeep Singh Gill, Advocate,
with the respondent No.2-complainant/Harbiner Singh.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 03.06.2009 passed by the Additional Sessions Judge, Jalandhar, vide which the appeal preferred by the accused-petitioner against the judgment of conviction and order of sentence dated 24.09.2007 passed by the Judicial Magistrate 1st Class, Jalandhar has been dismissed with the modification in his sentence.

2. The brief facts of the case are that the accused-petitioner/Makhan Singh borrowed a sum of Rs.3,00,000/- from the complainant-respondent No.2/Harbinder Singh. When the complainant/respondent No.2 asked the accused/petitioner to return the aforesaid amount, he issued a cheque bearing No.784324 dated 09.07.2005 for a sum of Rs.3,00,000/- drawn on Punjab and Sind Bank, Dakoha, Jalandhar in favour of the complainant/respondent No.2. On presentation,

the aforesaid cheque was dishonoured with remarks "Funds Insufficient"



vide memo dated 11.07.2005 and the same was returned to the complainant/respondent No.2. The accused/petitioner was served with a legal notice dated 21.07.2005 for the repayment of the aforesaid amount but he failed to make the payment within the stipulated period of 15 days, leading to initiation of proceedings under Section 138 of the Negotiable Instruments Act, 1881.

3. In the complaint under Section 138 of the Negotiable Instruments Act, 1881 filed by the complainant/respondent No.2, the accused/petitioner was summoned to face trial. The evidence was led and ultimately, the accused/petitioner was held guilty and accordingly, convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and was sentenced as under:-

Offence under Section	Sentence	Fine	In default of payment of fine
138 of the N.I. Act	RI for 02 years	Rs.5,000/-	RI for 03 months

4. Aggrieved against the said judgment of conviction and order of sentence, the accused/petitioner preferred an appeal before the Additional Sessions Judge, Jalandhar, which came to be dismissed on 03.06.2009 and while upholding his conviction, the sentence was modified as under:-

Offence under Section	Sentence	Fine	In default of payment of fine
138 of the N.I. Act	RI for 01 year	Rs.5,000/-	RI for 03 months

5. Still aggrieved, the present revision petition has been preferred by the petitioner.



6. The learned counsel for the petitioner contends that during the pendency of the revision petition, a compromise has been effected between the parties and it was agreed that the accused/petitioner shall pay a sum of Rs.3,00,000/- to the complainant/-respondent No.2 as full and final settlement. He contends that as per the order dated 11.08.2009 passed by this Court, out of the aforesaid amount of Rs.3,00,000/-, a sum of Rs.65,000/- (in cash) was handed over to the learned counsel for the complainant/respondent No.2 and the remaining amount of Rs.2,35,000/- has also been paid by the accused/petitioner to the complainant/respondent No.2. Therefore, nothing is due towards him. He further contends that in view of Section 147 of the Negotiable Instruments Act read with Section 320 Cr.P.C. where a settlement has been effected, the offence under Section 138 of the Negotiable Instruments Act can be compounded on account of the fact that a mutual compromise has been effected between the parties.

6. The learned counsel for respondent No.1-State alongwith the learned counsel for respondent No.2 on instructions from respondent No.2/complainant-Mr. Harbinder Singh present in the Court, contend that as the matter has been settled between the parties, they have no objection if the prayer of the learned counsel for accused-petitioner for compounding the offence under Section 138 N.I. Act is allowed and the petitioner is acquitted of the charges framed against him.

7. I have heard the learned counsel for both the parties.

8. This Hon'ble Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-



“4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:

“Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

9. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

10. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

11. Accordingly, the revision petition is allowed and subject to payment of Rs.20,000/- as costs to be deposited with Spinal Rehab Centre, Chandigarh Plot No.1, Madhya Marg, Sector 28-A, Chandigarh, 0172-4610311, the judgment dated 03.06.2009 passed by the Additional Sessions



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Judge, Jalandhar, as well as the judgment of conviction and order of sentence dated 24.09.2007 passed by the Judicial Magistrate 1st Class, Jalandhar, are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

12. Since the main petition has been disposed of no order needs to be passed in the pending application(s), if any,

(JASJIT SINGH BEDI)
JUDGE

February 06, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No