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

CRR-978-2025 (O&M)

Date of Decision: 09.04.2025

M/sDavinder Trading Company

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vivek K. Thakur, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (Oral)**CRM-15008-2025**

Allowed as prayed for. Annexures P-1 to P-5 are taken on record.

Main case

1. Petitioner has approached this Court by way of filing the present revision petition impugning the order dated 27.02.2025 passed by learned Additional Sessions Judge-I, Kapurthala alongwith judgment of conviction and order dated 31.01.2020 passed by learned JMIC, Kapurthala, whereby, the petitioner has been convicted under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act') to sentence to undergo one year rigorous imprisonment and to pay compensation equivalent to the cheque amount to the complainant.

2. The case as enumerated from the facts is that a complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed against the petitioner by respondent No.2 on the allegations of dishonouring of cheque No.314977 dated 03.05.2017 for an amount of Rs.13,59,561/- issued by the petitioner in discharge of his liability and the said complaint was accepted vide order dated 31.01.2020 by learned JMIC, Kapurthala, whereby the petitioner was sentenced to undergo one year rigorous imprisonment and to



pay compensation equivalent to the cheque amount to the complainant. The order of conviction and sentence dated 31.01.2020 was assailed by the petitioner by filing appeal before 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 27.02.2025. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

3. At the outset, learned counsel for the petitioner has submitted that the appeal filed by the petitioner before learned Appellate Court has been dismissed in his absence. He submits that as on date, the parties have settled the dispute and entire amount has been paid by the petitioner to the complainant-respondent 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**, Law Finder Doc Id# 2557645, wherein, it has been held that there is no bar to seek the compounding of the offence at later stage of criminal proceedings including after conviction. He has further submitted that as proprietor of the petitioner-firm, is suffering from left ICA Thrombosis (blood clot in brain) alongwith diabetes mellitus type-2 etc. and is not in position to pay the compensation as per requirement in the judgment of Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H.** 2010(2) RCR (Crl.) 851. Thus, he prays for dispensing with the



condition of deposit of 15% of the compensation amount keeping in view the poor financial condition of the petitioner-firm.

4. Notice of motion.

5. Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of the State and Ms. Vaishal Thakur, Advocate, accepts notice on behalf of respondent No.2.

6. Learned counsel for respondent No.2 has affirmed the contentions raised by learned counsel for the petitioner with regard to the settlement and has submitted that complainant-respondent has no objection, if the present petition is allowed and the orders under challenge are set aside/quashed. She submits that affidavit (Annexure P-4) of the respondent-complainant in this regard has also been filed.

7. Heard. 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-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.

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 a consequences, the order dated 27.02.2025 passed by learned Additional Sessions Judge, Kapurthala and order dated 31.01.2020 passed by JMIC, Kapurthala, convicting and sentencing the petitioner under Section 138 of



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the NI Act, are set aside subject to payment of Rs.50,000/- as costs to be desposited as under:-

- Rs.25,000/-

To the complainant (to be deposited with the Court concerned within a period of 10 days from today)
- Rs.25,000/-

To Day Care Centre for Elderly Disabled in home for Old & Destitute People, Sector-15, Chandigarh (to be deposited within a period of 10 days from today. Receipt of the same shall be submitted before the Court concerned within a period of 15 days from today).

9.

The trial Court shall issue a notice to the complainant and on his appearance, the costs shall be paid to him forthwith.
10.

Taking into consideration the contention raised by learned counsel for the petitioner regarding his inability to pay the compensation due to his ill health, this Court deems it appropriate to dispense with the condition of deposit of 15% of the cheque amount as compensation by the petitioner and he is allowed to compound the offence. However, the petitioner is directed to deposit the costs as mentioned above.
11.

Present petition is allowed in above terms and the pending applications, if any are also disposed of.
12.

Needless to say that in case the petitioner fails to deposit the amount of costs as directed above, this order would be of no avail to him and the orders dated 27.02.2025 and 31.01.2020 will come in force and the present petition shall be deemed to have been dismissed.
13.

Copy of this order be sent to learned trial Court concerned forthwith.

09.04.2025
sharmila

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No

(RAJESH BHARDWAJ)
JUDGE