



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-308-2010 (O & M)
Date of decision: 25.04.2025

Vipan Kumar

.... Petitioner

V/s

Ashwani Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anmol Jeevan Singh Gill, Advocate, for the petitioner.

Mr. Vinod K. Kaushal, Advocate and
Mr. Rahul Garg, Advocate, for the respondent.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed against the judgment dated 19.01.2010 passed by the Sessions Judge, Amritsar vide which the appeal preferred by the accused-petitioner against the judgment of conviction and order of sentence dated 30.04.2009 passed by the Special Judicial Magistrate, Amritsar has been dismissed.

2. The brief facts of the case are that the accused-petitioner-Vipan Kumar had availed a friendly loan of Rs.75,000/- from the complainant-respondent/Ashwani Kumar. In discharge of his liability, the accused-petitioner had issued a cheque bearing No.441439 dated 07.09.2007 for a sum of Rs.75,000/- drawn on Andhra Bank, Amritsar in favour of the complainant-respondent with the assurance that the same would be encashed. On presentation of the aforesaid cheque, the same was dishonoured with the remarks 'insufficient funds'. The accused/petitioner



was served with a legal notice dated 27.09.2007 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, 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 to undergo rigorous imprisonment for a period of one year. He was also directed to pay a compensation to the tune of Rs.1,00,000/- under Section 357(3) Cr.P.C. within one month after the expiry of period of appeal or revision, if any.

4. Aggrieved against the said judgment of conviction and order of sentence, the accused/petitioner preferred an appeal before the Sessions Judge, Amritsar, which came to be dismissed on 19.01.2010.

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. Further, in compliance of the order dated 27.03.2025 passed by this Court, he has handed over a demand draft bearing No.515030 dated 23.04.2025 for a sum of Rs.1,00,000/- in favour of the complainant-respondent/Ashwani Kumar to the learned counsel for the respondent as a full and final settlement. Therefore, nothing remains due towards the complainant-respondent. 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. A photocopy of the aforesaid demand draft has been placed on record.

7. The learned counsel for the complainant-respondent contends that as the matter has been settled between the parties, he has 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.

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

9. 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.”



10. 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.

11. 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.

12. Accordingly, the revision petition is allowed and subject to payment of Rs.15,000/- as costs to be deposited with Day Care Centre for Elderly Disabled in home for Old and Destitute People, Sector 15, Chandigarh, the judgment dated 19.01.2010 passed by the Sessions Judge, Amritsar as well as the judgment of conviction and order of sentence dated 30.04.2009 passed by the Special Judicial Magistrate, Amritsar are hereby set aside. The petitioner-Vipan Kumar is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

13. 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

April 25, 2025
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No