



118

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

**CRR-1102-2025(O&M)
Date of decision: 28.04.2025**

Ram Kumar

...Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amit Choudhary, Advocate for petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Mohit Jasuja, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present revision petition has been filed for setting aside the impugned judgment of conviction and order of sentence dated 31.08.2024 passed by learned Judicial Magistrate First Class, Fatehabad in complaint case bearing No.NACT/442 of 2019 under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act'), whereby petitioner was sentenced to undergo simple imprisonment for period of eight months and to pay compensation to the tune of Rs.2,50,000/- i.e. equal to amount of cheque in terms of Section 357(3) of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to the complainant within two months and in default of payment of compensation within the above said period, he shall further undergo simple imprisonment for one month; and judgment dated 01.04.2025 passed by learned Additional Sessions Judge, Fatehabad whereby appeal filed against the aforesaid judgment of conviction and order on sentence dated 31.08.2024, was dismissed.



2. The facts of the case as recorded in the judgment dated 01.04.2025 passed by learned Additional Sessions Judge, Fatehabad, are recapitulated as under:-

“ It is the case of the respondent-complainant that the accused had borrowed a sum of Rs.2,50,000/- from the complainant for personal needs on 05.02.2019 with the assurance to return the same with one month. It is further submitted that the accused in discharge of his lawful liability, had issued a cheque bearing No.072072 dated 03.04.2019 in favour of the complainant amounting to Rs.2,50,000/- drawn on his account No. 535202010013471 maintained by him with Union Bank of India, Branch Sirsa with the assurance that when the complainant will present the said cheque in the bank for collection, the cheque amount will be paid by the bank to the complainant. It is further submitted that on 08.04.2019, the complainant presented the said cheque for payment in his bank ie. The Sarva Haryana Gramin Bank, Branch Dhand, Sub-Tehsil Bhattu Kalan, Fatehabad for clearance but the cheque was dishonoured with the remarks "Funds Insufficient" vide return memo dated 09.04.2019 issued by Union Bank of India, Branch Sirsa. Thereafter, the complainant again presented the said cheque for payment in his bank i.e. The Sarva Haryana Gramin Bank, Branch Dhand, Sub-Tehsil Bhattu Kalan, Fatehabad Fatehabad for clearance but the cheque was again dishonoured with the remarks "Funds Insufficient" vide return memo dated 26.04.2019. Thereafter, the complainant served the accused with a legal notice dated 15.05.2019 through his counsel thereby calling upon him to make the payment of Rs.2,50,000/- to the complainant within 15 days of the receipt of the notice and the same was duly served to the accused but the accused neither made the payment nor filed any reply to the legal notice. It is further submitted that despite issuance and service of legal notice to the accused, the accused has failed to make the payment of cheque amount to the complainant. Hence, this complaint.”



3. Contends that matter has been amicably settled between the parties i.e. petitioner and *de facto*-complainant (P-1). Also contends that permission may be granted to compound the offence as contemplated under Section 147 of the NI Act. Again contends that petitioner is sole bread earner of the family and there is no body at home to look after the other family members of his family.

4. Learned State counsel has duly acknowledged the factum of settlement.

5. Learned counsel for the *de facto*-complainant also acknowledged the factum of settlement and he has no objection, if the offence is compounded.

6. Heard both sides and perused the paper-book.

7. It transpires that parties went through various stages of litigation before the matter has reached to this Court by way of present revision petition. Now, petitioner has entered into settlement with the respondent and seeking to set aside their conviction recorded by both the Courts below on the basis of terms agreed between the parties. Still further, respondent has not opposed the prayer of the petitioner; rather acknowledged the factum of settlement.

8. Hon'ble the Supreme Court in 'Damodar S.Prabhu Vs. Sayed Babalal H.' 2010(5) SCC 663, while dealing with the matter regarding compounding of offence punishable under Section 138 of NI Act, issued certain guidelines and relevant part of Para No. 21 reads as under:-

“ 21.....

The guidelines

(i) *In the circumstances, it is proposed as follows:-*

(a)

(b)

(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.

.....”

It was further observed by Hon’ble the Supreme Court in Para No. 25 that competent Court can reduce the costs with regard to specific facts and circumstances of the case and relevant observations in this regard reads as under:-

“ 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.”

9. In the present case, there are certain mitigating circumstances for reduction of the costs and which would be as under:-

- (i) Petitioner is in custody in this case since 01.04.2025;*
- (ii) He is facing protracted litigation for the past 6 years;*
- and*
- (iii) He has no means to pay the costs.*

10. Apparently, petitioner is a poor person, therefore, taking into consideration the entire controversy and the fact that petitioner is facing litigation for the last 6 years, hence, this Court deems it appropriate to allow the compounding of offence and to set aside the conviction of petitioner imposed in the impugned judgments dated 31.08.2024 and 01.04.2025 (*ibid*) and to reduce the costs to Rs.5,000/-.

11. Consequently, petition is allowed; impugned judgments dated 31.08.2024 and 01.04.2025 (*ibid*) passed by both the Courts below are set aside, subject to costs of Rs.5,000/- and petitioner stand acquitted forthwith.



12. Costs shall be deposited with Haryana State Legal Services Authority within a period of 06 weeks from the date of receipt of certified copy of this order.

13. Petitioner be released from custody, if not required in any other case.

Pending application(s), if any, shall also stand disposed off.

28.04.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>