



CRR-3474-2017 (O&M)

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225 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-3474-2017 (O&M)
Date of Decision: 21.03.2025

SARDAR

...Petitioner

V/S

THE GURGAON GRAMIN COOPERATIVE BANK LTD. BRANCH
AT TAURU, TEHSIL TAURU, DISTRICT MEWAT THROUGH ITS
BRANCH MANAGER

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Hooda, Advocate
for the petitioner.

Mr. Rajesh Lamba, Advocate with
Mr. Abhinav Kaushik, Advocate for respondent-bank.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this petition is for setting aside the judgment dated 26.05.2017 passed by learned Additional Sessions Judge, Mewat vide which the judgment of conviction and order on quantum of sentence dated 24.07.2015/27.07.2015 passed by learned Additional Chief Judicial Magistrate, Mewat have been upheld vide which the petitioner has been convicted under Section 138 of Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for one year and imposed a fine of Rs. 25,000/- to be paid to the complainant as cost with default mechanism in complaint bearing CIS No. NI Act 236 of 2014 titled as '*The Gurgaon District Primary Co-Opp Agricultural and Rural Development Bank Ltd. Branch Vs. Sardar*'.

2. Learned counsel for the petitioner submits that entire dispute between the parties has been settled and the settled amount has been paid



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by the petitioner to respondent-bank. Thus, he prays that offence under Section 138 of Negotiable Instruments Act being compoundable in nature, the same may be compounded and the judgment(s) of conviction and order of sentence may be set aside.

3. Learned counsel for respondent-bank affirms the aforesaid fact that petitioner has paid the settled amount to respondent-bank and respondent has no objection in case the offence under Section 138 of Negotiable Instruments Act, for which petitioner has been convicted, is compounded and petitioner is acquitted of the notice of accusation framed against him.

4. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

5. It is settled law that the proceedings initiated under Section 138 of the NI Act are quasi-criminal in nature and the object and purpose of this enactment is to provide a compensatory mechanism for expeditious recovery of money as opposed to punishing the accused. The Hon'ble Supreme Court in *R. Vijayan Vs. Baby (2012) 1 SCC 260* has considered the said issue and come to the conclusion that punishing the offender is secondary concern.

6. The amendment carried out in the year 2002 in the NI Act intended to make the nature of offence under Section 138 of the NI Act as a civil wrong while making it compoundable. A two Judge Bench of the Hon'ble Supreme Court in *Meters and Instruments Private Limited and*



another Vs. Kanchan Mehta (2018) 1 SCC 560, speaking through Justice

A.K. Goel has held as under:-

“7. This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions’ cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable.....

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18.2. The object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, compounding at the initial stage has to be encouraged but is not debarred at later stage subject to appropriate compensation as may be found acceptable to the parties or the court.

18.3. Though compounding requires consent of both parties, even in absence of such consent, the court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused.”

7. Moreover, a two Judge Bench of the Hon’ble Supreme Court in ***JIK Industries Limited and others Vs. Amar Lal V. Jumaní and another (2012) 3 SCC 255*** has examined the issue whether for compounding of an offence, consent of aggrieved party is required and speaking through Justice Asok Kumar Ganguli, following was held:-

“82. A perusal of Section 320 makes it clear that the provisions contained in Section 320 and the various sub-sections is a code by itself relating to compounding of offence. It provides for the various parameters and procedures and guidelines in the matter of compounding. If this Court upholds the contention of the appellant that as a result of incorporation of Section 147 in the NI Act, the entire gamut of procedure of Section 320 of the Code are made inapplicable to compounding of an offence under the NI Act, in that case the compounding of offence under the NI Act will



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be left totally unguided or uncontrolled. Such an interpretation apart from being an absurd or unreasonable one will also be contrary to the provisions of Section 4(2) of the Code, which has been discussed above. There is no other statutory procedure for compounding of offence under the NI Act. Therefore, Section 147 of the NI Act must be reasonably construed to mean that as a result of the said section the offences under the NI Act are made compoundable, but the main principle of such compounding, namely, the consent of the person aggrieved or the person injured or the complainant cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.”

8. In view of the aforesaid discussion, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and judgment of conviction and order on quantum of sentence dated 24.07.2015/27.07.2015 passed by learned Additional Chief Judicial Magistrate, Mewat and further the judgment dated 26.05.2017 passed by learned Additional Sessions Judge, Mewat are quashed/set aside, qua the petitioner and the petitioner is acquitted of the notice of accusation framed against him. His bail bonds and surety bonds stand discharged. Accordingly, present petition is allowed.

9. Pending CRM(s), if any, are also disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

21.03.2025

Ajay Goswami

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