



CRR-1447-2025 (O&M)

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

**CRR-1447-2025 (O&M)
Date of decision: 11.07.2025**

AVINASH KUMAR KAPOOR

...PETITIONER

VERSUS

RAM NARAYAN AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE H.S.GREWAL

Present: Mr. Ravinder Bangar, Advocate and
Ms. Anjali Bangar, Advocate for the petitioner.

Mr. Ravinder Singh Budhwar, Advocate for respondent No.1.

Mr. Aditya Pal Singh, AAG, Haryana.

H.S.GREWAL,J. (ORAL)

CRM-25976-2025 and CRR-1447-2025

1. The petitioner has filed the present revision petition against the impugned judgment dated 22.04.2025 passed by the learned Additional Sessions Judge, Kurukshetra, and the impugned judgment of conviction and order of sentence dated 21.09.2017 passed by the Court of Judicial Magistrate Ist Class, Kurukshetra whereby, the petitioner has been convicted under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act") and was sentenced to undergo rigorous imprisonment for a period of one year and to pay the compensation equivalent to cheque amount i.e. Rs. 3,15,000/- under Section 357(3) of Cr.P.C. In case of default of payment of compensation, to further



undergo simple imprisonment for a period of three months.

2. Along with the main petition, the petitioner had filed an application under Section 359 read with Section 528 of B.N.S.S with a prayer to compound the offence under Section 138 of the “Act”.

3. During the course of hearing, it has been brought to the notice of the Court that matter has been compromised between the parties vide settlement agreement and the entire settled amount has already been paid by the petitioner to respondent.

4. On the other hand, learned counsel for respondent admitted the factum of compromise and further stated that entire settled amount is received by respondent and he has no objection if the offence punishable under Section 138 NI Act is compounded and the petitioner may be acquitted. Prayer has been made by the learned counsel for the petitioner that the present petition may be allowed.

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 ***JK 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 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. Offence punishable under Section 138 NI Act is a compoundable offence. It appears that in the present case, parties have settled their dispute with regard to dishonor of cheque in question. In the given circumstances, permission is hereby given to the parties to compound an offence punishable under Section 138 NI Act. Consequently, the petitioner deserves to be acquitted of the offence

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punishable under Section 138 NI Act.

9. In view of the above discussion, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and judgment(s) of conviction and order(s) on quantum of sentence dated 21.09.2017 passed by the Court of Judicial Magistrate Ist Class, Kurukshetra and further the judgment(s) 22.04.2025 passed by the learned Additional Sessions Judge, Kurukshetra are hereby quashed/set aside, qua the petitioner and the petitioner is acquitted of the notice of accusation framed against him and he be released forthwith, if not required in any other case.

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

11.07.2025*renu***(H.S.GREWAL)****JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No