IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR 1737 of 2022 (O&M)
Date of Decision: 28.05.2025

Satish Kumar ...Petitioners

Vs.

Prem Singh ...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Vikash Lochab, Advocate, for the petitioner.

Mr. Amaninder Preet, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition before this Court against the impugned judgment dated 08.08.2022 passed by the Court of Additional Sessions Judge, Sonipat and impugned judgment of conviction dated 25.10.2021 and order of sentence dated 26.10.2021 passed by the Court of Sub Divisional Judicial Magistrate, Gohana, whereby, the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') and sentenced to undergo simple imprisonment for a period of one year and also directed to pay 1.5 times of the cheque amount, i.e. Rs. 4,95,000/- as fine within one alongwith default stipulation.

2. During the pendency of the present revision petition, the matter was referred to the Mediation and Conciliation Centre of this Court. On 14.09.2022, the matter was settled before the Mediation and Conciliation Centre of this Court. As per the settlement, the petitioner had paid a sum of Rs. 1.75 lacs to the respondent and a sum of Rs. 2 lakhs was to be paid on or before 14.12.2022. However, the petitioner could not produce the draft of Rs. 2 lakhs before 14.12.2022 and he brought the demand draft of Rs. 2 lakhs on 11.01.2023, when the case was listed before this Court. Learned counsel for the petitioner also moved an application, i.e., CRM 2561 of 2023 before this Court under Section 147 of the Act read with Section 482 Cr.P.C. for compounding the offence in the present case and submitted that the petitioner was ready to hand over the amount of Rs. 2 lakhs to the respondent in terms of the compromise arrived at between the parties. Even, the case was listed on 10.08.2023 and the following order was passed:-

> *"From the perusal of case file, it is revealed that vide order dated 02.09.2022, the present case was referred to the Mediation and Conciliation Centre of this Court. In compliance of the said order, on 14.09.2022, both the parties appeared before the Mediation Centre and entered into a settlement/agreement. As per the terms of the above-said settlement dated 14.09.2022, the petitioner had paid a sum of Rs.1,75,000/- to the respondent and further sum of Rs.2,00,000/- was to be paid on or before 14.12.2022.*

Learned counsel for the petitioner submits that due to certain unavoidable circumstances, the petitioner could not pay the remaining amount to the respondent. However, on 11.01.2023 and on other subsequent dates, the petitioner had brought a Demand Draft of Rs.2,00,000/- but the respondent flatly refused to receive the same.

Even today, during the course of the hearing, learned counsel for the petitioner has brought a Demand Draft of Rs.2,00,000/-, but again the respondent refused to receive the same.

Admitted".

3. Now, the case is again listed for hearing on the request made by the respondent. The respondent has also filed a CRM-21301 of 2025 before this Court and also placed on record his affidavit. In his affidavit, the respondent has categorically stated that in terms of the settlement deed dated 14.09.2022, he was ready to accept the amount of Rs.2 lakhs as full and final settlement and he had no objection in case the application, i.e., 2561 of 2023 for compounding the offence is allowed by this Court.

4. During the Court hearing, a demand draft of bearing No. 000225 dated 26.05.2025 for a sum of Rs. 2 lakhs drawn on Axis Bank has been handed over to the respondent, who is present in person in the Court and has been duly identified by his counsel. This Court has also interacted with the respondent and he submitted that he had no objection in case the application for compounding is allowed by this Court and the petitioner is ordered to be acquitted.

5. I have heard learned counsel for the parties and perused the record.

6. Learned counsel for the petitioner by relying upon **<u>Cochin Hotels Co.(P) Ltd. and others Vs. Kairali Granites and others, 2006(2) RCR (Criminal) 333 and K. Subramanian Vs. R. Rajathi represented by POAP Kaliappan, 2010 (1) RCR (Criminal) 184</u>** contended that even after finalization of judgment of conviction and order of sentence, petitioner can resort to compounding mechanism in terms of Section 147 of Negotiable Instruments Act as the offence related to dishonouring of cheque is having compensatory profile and it should be given precedence over punitive mechanism. Offence is almost a civil wrong which has been clothed in a criminal overtone, therefore, the priority should be given to compensatory mechanism

7. Learned counsel also relied upon **<u>Damodar S. Prabhu vs. Sayed Babalal H.(supra) Kaushalya Devi Massand vs. Roopkishore, 2011(2) RCR (Criminal) 298</u>** and contended that the compromise in question would definitely go in long way to strengthen the mutual relationship between the parties and would serve as an ever lasting tool in their favour. This exercise would be in consonance with the spirit of Section 147 of the Negotiable Instruments Act as endorsed in **<u>Damodar S. Prabhu's case (supra)</u>**

8. So far as 15% of the cheque amount in terms of ratio of **Damodar S. Prabhu's case (supra)** is concerned, I am of the view that Section 147 of the Negotiable Instruments Act does not contain any guideline or procedure for proceeding with the compounding of the offences. Since scheme under Section 320 Cr.P.C cannot be followed in stricto sensu, therefore, Hon'ble Apex Court has also clarified that in order to discourage chronic litigants from delaying the composition of the offence under Section 138 of the Act, the scheme for imposing costs is considered to be a valid means to encourage compounding at the earliest. Valuable time of the Court is also involved in the trial of the cases and the parties are not liable to pay any Court fee in such proceedings, even though the impact of the offence is largely confined to the private parties. The imposition of costs would be a matter of discretion of the Court.

9. In view of the fact that the parties have resolved their differences and have compromised the matter and also the fact that the petitioner is a poor and rustic villager and has no resources, I am of the view that 15% of the cheque amount towards cost(s) of litigation can be waived off in the interest of justice.

10. In view of the above discussion, the present petition is disposed off and the impugned judgment dated 08.08.2022 passed by the Court of Additional Sessions Judge, Sonipat and impugned judgment of conviction dated 25.10.2021 and order of sentence dated 26.10.2021 passed by the Court of Sub Divisional Judicial Magistrate,

Gohana, are set aside and the parties are allowed to compound the offence in terms of Section 147 of the Act and petitioner is ordered to be acquitted of the notice of accusation.

11. All pending applications, if any, are disposed off, accordingly.

28.05.2025 **(N.S.SHEKHAWAT)**

amit rana **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No