

CRR-1845-2022 (O&M)

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228 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRR-1845-2022 (O&M)
Date of Decision: 10.01.2025

SAMEER DHAR

...Petitioner

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Sabherwal, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. Gurinder Singh Dhillon, Advocate for
respondent No. 2.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment and order on quantum of sentence dated 27.07.2021 passed by learned Judicial Magistrate Ist Class, Ludhiana vide which the petitioner was convicted under Section 138 of NI Act and awarded rigorous imprisonment for a period of two years and compensation of Rupees One Crore to be paid to respondent No. 2/complainant and judgment dated 31.08.2022 passed by learned Additional Sessions Judge, Ludhiana, vide which the appeal filed by the petitioner was dismissed.

2. Learned counsel for the petitioner *inter alia* contends that petitioner was convicted for the offence under Section 138 of Negotiable Instruments Act by learned trial Court and awarded rigorous imprisonment for a period of 02 years and compensation of Rs. 1 crore was also awarded

before the learned lower Appellate Court, which was also dismissed by learned Additional Sessions Judge, Ludhiana vide judgment dated 31.08.2022. Further during the pendency of present petition, the petitioner and respondent No. 2 have effected compromise on 05.08.2024 and according to the terms and conditions of the said compromise, the petitioner was required to pay the settled amount of Rs. 1 crore to the complainant-respondent No. 2. The petitioner has paid the entire amount of Rs. 1 crore as agreed between the parties and learned counsel representing respondent No. 2 also affirms the statement made by learned counsel for the petitioner and submits that respondent No. 2/complainant has received the entire settled amount of Rs. 1 crore and has no objection, in case the offence under Section 138 of Negotiable Instruments Act be compounded and the petitioner be acquitted of the charge framed against him.

3. Learned counsel for respondent No. 2 further submits that respondent No. 2 would abide by the terms and conditions of the said compromise and will withdraw the civil suit for recovery filed against the petitioner within a period of 04 weeks from today.

4. After giving my thoughtful consideration to the submissions put forth by all sides and on careful perusal of the material on record, it transpires that the petitioner has deposited the abovesaid amount to the complainant-respondent No. 2. Hence, this Court is inclined to accept the prayer made by the petitioner.

5. Pertinently, 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..... xxxx xxxx xxxx

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.”

6. In view of the above discussion, the present petition is allowed and consequently, the offence under Section 138 of the Negotiable Instruments Act, 1881 is compounded and the judgment of conviction and order on quantum of sentence dated 27.07.2021 passed by learned Judicial Magistrate Ist Class, Ludhiana and the judgment dated 31.08.2022 passed by learned Additional Sessions Judge, Ludhiana are hereby set aside and

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petitioner is acquitted of the charge framed against him. His bail bonds and surety bonds stand discharged.

7. Present revision petition is disposed of in aforesaid terms.

8. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

10.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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