



**In the High Court for the States of Punjab and Haryana
At Chandigarh**

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CRM-M-40495-2025 (O&M)
Date of Decision:-04.08.2025

Nirmal Singh

... Petitioner

Versus

M/s Zimidara Trading Company and another

... Respondents

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

Present:- Dr. Naresh Kaushik, Advocate for the petitioner.

Mr. T.P.S. Bhatti, Advocate for respondent No.1.

Mr. H.S. Wadhwa, DAG, Punjab.

H. S. Grewal, J.(Oral)**CRM-29855-2025**

Application is allowed and affidavit of Lakhvir Singh –
respondent No.1 is taken on record.

Main case

1. This petition has been filed under Section 528 of BNSS of 2023, read with Section 147 Negotiable Instrument Act, 1881 for quashing the warrants of arrest dated 22.05.2025 (Annexure P-1) issued in case titled as “Nirmal Singh V/s M/s Zimidara Trading etc.” in case CIS No.CRM-178-2023 issued by learned Sub Divisional Judicial Magistrate, Payal by compounding of all criminal proceedings between parties and setting aside the conviction and sentence of rigorous imprisonment of one year and six



months and to pay fine of Rs.10,000/- and in default to undergo further imprisonment for 15 days vide judgment dated 06.11.2017 (Annexure P-3) offence under Section 138 NI Act, passed by Court of SDJM, Payal in Criminal Complaint No.254 of 19.08.2011 (COMA/57/2014) titled as “M/s Zimidara Trading Company Vs. Nirmal Singh” and judgment dated 05.08.2023 (Annexure P-4) dismissing of appeal of Id. Addl. Sessions Judge, Rupnagar and for quashing of all consequential proceedings therein, by acquitting the petitioner on the basis of compromise dated 23.05.2025 (Annexure P-2).

2. During the course of hearing, it has been brought to the notice of the Court that matter has been compromised between the parties vide compromise deed (Annexure P-1) and the entire settled amount has already been paid by the petitioner to respondent.

3. 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 has no objection if the offence punishable under the 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.

4. It is settled law that the proceedings initiated under the 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.



5. 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. Moreover, a two Judge Bench of the Hon’ble Supreme Court in ***JIK Industries Limited and others Vs. Amar Lal V. Jumani 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.”



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7. Offence punishable under Section 138 of the Act is a compoundable offence. It appears that in the present case, parties have settled their dispute with regard to dishonour of cheque in question. In the given circumstances, the petitioner deserves to be acquitted of the offence punishable under Section 138 of the Act.

8. For the foregoing reasons, the present petition is allowed and the impugned judgments passed by the Courts below are set aside and the petitioner is acquitted of the notice of accusation served upon him under Section 138 of the Act. The petitioner be released forthwith if not required in any other case.

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

04.08.2025

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**(H. S. Grewal)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No