



122

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-1983-2024 (O&M)

Date of decision: 28.01.2025

DALBIR SINGH

....Petitioner

Versus

OM PARKASH SINCE DECEASED THROUGH HIS LR

....Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate,
for the applicant-petitioner.

Mr. Ramender Singh Chouhan, AAG, Haryana.

Mr. Sandeep Berwal, Advocate for the respondent.

SANJIV BERRY, J. (ORAL)

CRM-40510-2024

1. The instant application has been preferred under Section 147 of the Negotiable Instruments Act read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS) for compounding of offence under Section 138 of the N.I. Act.

2. During course of hearing following orders were passed on 13.01.2025:-

“ Instant application has been preferred under Section 147 of the Negotiable Instruments Act read with Section 528 of the BNSS for compounding of offence under Section 138 of the N.I. Act.

2. Heard.



3. *It is, inter alia, contended by learned counsel for the applicant-petitioner that a criminal complaint No. 1456-II of 2016 under Section 138 of the N.I. Act titled as 'Om Parkash vs. The All Employees Urban (Salary Earners) Thrift & Credit Society Limited and others', was filed by the respondent in the Court of learned Judicial Magistrate Ist Class, Hisar against the present petitioner wherein vide judgment of conviction dated 10.08.2018 and order of sentence dated 13.08.2018, the petitioner was convicted to undergo SI for a period of 06 months and to pay a compensation of Rs. 2.5 lakhs. He further contends that a criminal appeal i.e. CRA No. RBT-16-CRA-2018, 'Dalbir Singh vs. Om Parkash' was preferred by the present petitioner, which was dismissed by the Court of learned Additional Sessions Judge, Hisar, vide order dated 27.09.2024.*

4. *Learned counsel for the petitioner further contends that in the meanwhile, settlement had been effected between the parties vide settlement deed dated 01.10.2024 (Annexure A-3). On the basis thereof, compounding of offence is sought for. He further contends that the petitioner is ready and willing to deposit 15% of the cheque amount in terms of the principle as laid down in Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097.*

5. *Learned counsel for the respondent, has not disputed the factum of compromise and the aforesaid settlement deed (Annexure A-3) and has filed an affidavit of Mrs. Chameli, widow of Om Parkash, respondent, who was allowed to be brought on record vide order dated 16.10.2024, being the legal representative of the deceased-Om Parkash, respondent. He contends that that he has no objection if the compounding of the offence is allowed.*

6. *In view of the aforesaid facts and circumstances and the submissions thereof, both the parties are directed to appear before the learned Illaqa Magistrate/Duty Magistrate, Hisar on 20.01.2025 for getting their statements recorded with regard to*



genuineness of the settlement deed (supra) and also regarding their request for compounding of offence.

7. Report of the Trial Court be communicated to this Court on or before 28.01.2025.”

3. In compliance of the aforesaid orders, report dated 21.01.2025 of learned Judicial Magistrate Ist Class, Hisar, has been received and the same is taken on record.

4. Heard.

5. Learned counsel for the petitioner contends that in view of the compromise effected between the parties ₹4,40,000/- has been paid to the complainant as full and final payment (Annexure A-3), and petitioner is ready and willing to deposit 15% of the cheque amount in terms of the principle laid down in Damodar S. Prabhu's case (supra) as such, he prays for compounding of the offence and acceptance of the revision petition.

6. Learned counsel representing the complainant-respondent has admitted the fact that the complainant has already received ₹4,40,000/- by way of RTGS and he has specific instructions from the complainant-respondent that he has no objection in case the application for compounding of offences is allowed.

7. After hearing the respective submissions and perusing the report dated 21.01.2025 of learned Judicial Magistrate Ist Class Hisar, it transpires that compromise effected between parties on 01.10.2024 (Annexure A-3) and the same is found to be suffered voluntarily without pressure or coercion.

8. The offences punishable under Section 138 of the Negotiable Instruments Act, is compoundable. This be the case, the case of the parties



found fairly covered within the ambit of ***Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097***, wherein it has been held that in case, compromise has been effected at the stage of as in the present case, 15% of the cheque amount would have to be deposited by the petitioner as costs. The guidelines framed in the aforesaid judgment, i.e. ***Damodar S. Prabhu (supra)***, are as under: -

- (i) *In the circumstances, it is proposed as follows:*
 - (a) *That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.*
 - (b) *If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.*
 - (c) *Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.*
 - (d) *Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.*

9. In the light of the guidelines given by the Hon'ble Apex Court in the aforesaid judgment, i.e. ***Damodar S. Prabhu (supra)***, present



application for compounding of offences is allowed subject to the petitioner depositing 15% of the cheque amount ₹2,50,000/-, i.e. ₹37,500/- before the High Court Legal Services Committee, Chandigarh within one month from today.

10. Application stands disposed of in above terms.

CRR-1983-2024

1. The aforesaid Criminal Revision Petition is taken up today for disposal.

2. The instant revision petition has been preferred against the impugned judgment dated 27.09.2024 passed by the Additional Sessions Judge, Hisar in Criminal Appeal No.494/2018, titled as “*Dalbir Singh vs. Om Parkash*”, whereby the judgment of conviction dated 10.08.2018 and order of sentence dated 13.08.2018 passed by the learned Judicial Magistrate Ist Class, Hisar, was upheld.

3. The aforesaid Revision petition was admitted on 16.10.2024 and sentence of the petitioner was suspended on 21.10.2024 vide orders passed by this Court.

4. Petitioner has moved an application CRM-40510-2024 for compounding of the offences and the same has been allowed in view of the compromise effected between the parties (Annexure A-3).

5. In view of above, this Court feels that no purpose will be achieved in keeping the proceedings alive. Accordingly, the present revision is allowed and the impugned judgment of conviction dated 10.08.2018 and order of sentence dated 13.08.2018 passed by learned Judicial Magistrate Ist Class, Hisar, and the impugned order in appeal, dated 27.09.2024, passed by

learned Additional Sessions Judge, Hisar, stands set aside and the petitioner is acquitted of the charges.

6. It is made clear that this order of acquittal will be subject to deposit of 15% of the cheque amount in terms of Damodar S. Prabhu (supra) within one month from today, positively, as aforestated in the order passed in CRM-40510-2024.

7. All the pending miscellaneous application(s), if any, stand disposed of in view of the above said judgment

28.01.2025
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |