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

**CRM-44865-2024, CRM-50276-2024 IN/AND
CRR-2255-2024(O&M)
Date of decision: 15.02.2025**

Pardeep Jain

...Petitioner

Versus

Satnam Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Satinder Kaur, Advocate for applicant-petitioners.

Ms. Amarinder Kaur, Advocate for the respondent.

MAHABIR SINGH SINDHU, J.

CRM-44865-2024

Application under Section 5 of Limitation Act read with Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for condonation of delay of 1373 days in filing present revision petition.

For the reasons mentioned in the application, same is allowed as prayed for subject to all just exceptions. Delay of 1373 in filing present revision petition is hereby condoned.

CRM-50276-2024

Application under Section 482 of Cr.P.C. for placing on record certified copies of judgment of appellate Court bearing CIS No.CRA 267/2018, dated 19.12.2018 and copy of trial Court R/C No.COMA 1652/16 dated 05.04.2018 as Annexure P-1 and P-2, respectively.



For the reasons mentioned in the application, same is allowed as prayed for subject to all just exceptions. P-1 and P-2 are taken on record. Registry to tag the same at appropriate place.

Main case

Present revision petition has been filed for setting aside the impugned judgment of conviction and order of sentence dated 05.04.2018 passed by learned Judicial Magistrate First Class, Bathinda in complaint case bearing No.586 dated 22.07.2016 under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act'), whereby petitioner was sentenced to undergo rigorous imprisonment for period of two years and to pay compensation to the tune of cheque amount i.e. Rs.13,00,000/- alongwith interest @ 9% per annum from the date of issuance of cheque in question; and judgment dated 19.12.2018 passed by learned Additional Sessions Judge, Bathinda whereby appeal filed against the aforesaid judgment of conviction and order on sentence dated 05.04.2018, was dismissed.

2. The facts of the case as recorded in the judgment of conviction and order of sentence dated 05.04.2018 passed by learned Judicial Magistrate First Class, Bathinda, are recapitulated as under:-

“ Concisely, the facts of the present complaint are that the accused in discharge of his lawful existing liability the accused issued a cheque No. 340645 of Rs.3,00,000/- dated 03.03.2016 and cheque No.340560 dated 04.04.2016 for a sum of Rs.10,00,000/- and in favour of complainant out of his account no.911020056883744 maintained by the accused with Axis Bank Ltd., Bathinda Branch, Bathinda and at the time of issuance of the said cheque, all accused assured the complainant that the above said cheque will be honoured as and when the same will be presented for its encashment. Believing the assurance of accused, the complainant accepted the said cheque and presented the said cheque for



encashment to his banker Union Bank of India, NFL Branch, Bathinda and banker of the complainant further sent the aforesaid cheque to the banker of accused for clearance but the cheque in question remained dishonoured as account already closed of the accused and the banker of the accused returned the above said cheque back to the banker of the complainant alongwith its cheque returning memo dated 26.05.2016 with remarks "Account Closed" and further banker of the complainant returned the same back to the complainant and in this way the aforesaid cheque remained dishonoured/bounced. It is averred that complainant after coming to know about the dishonour of the cheque, got issued a legal notice dated 30.05.2016 u/s 138 of NI Act upon the accused through Sh. Surinder Pal singh Bhagirath, Advocate, Bathinda and intimating the accused by sending two separate notices, one of which at his permanent resident and other at present addresses i.e. Central Jail, Faridkot, about the dishonour of above said cheque and calling upon him to make the payment of the same within the period of 15 days from the date of receipt of the notice and further made it clear that in case of default, the complainant shall be forced to file the complaint u/s 138 of N.I. Act, read with section 420 of IPC against the accused. The one of the above said registered notice has been received by the counsel of the complainant on dated 14.07.2016, which was sent to his permanent resident, but another notice has not been received back and as such there is a presumption under law that the same has been delivered upon the accused upto 07.06.2016 but despite that, the accused neither gave any reply to the said notice to the complainant, within the stipulated period of 15 days or even thereafter till date. In the end, prayer has been made to summon and punish the accused accordingly."

3. Contends that petitioner was involved in commercial transactions with various persons and dispute had arisen on account of dishonour of



different cheques issued by the petitioners. Further contends that parties have now arrived at settlement before the Mediation and Conciliation Centre of this Court and report of the Mediator has been received in this regard. Also contends that permission may be granted to compound the offence as contemplated under Section 147 of the NI Act. Again contends that petitioners have already undergone sentence of more than 10 years in these different cases; facing litigation for the last about 11 years; they are now penniless and not in a position to pay any costs.

4. Learned counsel for the respondent acknowledged the factum of settlement and he has no objection, if the offence is compounded.

5. Heard both sides and perused the paper-book.

6. It transpires that parties went through various stages of litigation before the matter has reached to this Court by way of present revision petition. Now, petitioner has entered into settlement with the respondent and seeking to set aside their conviction recorded by both the Courts below on the basis of terms agreed between the parties before the Mediator. Still further, respondent has not opposed the prayer of the petitioner; rather acknowledged the factum of settlement.

7. Hon'ble the Supreme Court in 'Damodar S.Prabhu Vs. Sayed Babalal H.' 2010(5) SCC 663, while dealing with the matter regarding compounding of offence punishable under Section 138 of NI Act, issued certain guidelines and relevant part of Para No. 21 reads as under:-

“ 21.....

The guidelines

(i) *In the circumstances, it is proposed as follows:-*

(a)

(b)



(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.

.....”

It was further observed by Hon’ble the Supreme Court in Para No. 25 that competent Court can reduce the costs with regard to specific facts and circumstances of the case and relevant observations in this regard reads as under:-

“ Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance.”

8. In the present case, there are certain mitigating circumstances for reduction of the costs and which would be as under:-

- (i) Petitioners have already undergone actual sentence for a period of more than 10 years in different cases;*
- (ii) They are facing protracted litigation for the past 11 years; And*
- (iii) Petitioners have no means to pay the costs.*

9. In view of the above, this Court deems it appropriate to allow the compounding of offence and to set aside the conviction of petitioner imposed in the impugned judgments dated 05.04.2018 and 19.12.2018 (*ibid*) and to reduce the costs to Rs.5,000/-.



10. Consequently, petition is allowed; impugned judgments dated 05.04.2018 and 19.12.2018 (*ibid*) passed by both the Courts below are set aside, subject to costs of Rs.5,000/- and petitioner stand acquitted.

11. Costs shall be deposited with Punjab State Legal Services Authority within a period of 08 weeks from today.

12. Bail bonds and surety bonds of petitioner stand discharged and he be released from custody, if not required in any other case.

Pending application(s), if any, shall also stand disposed off.

15.02.2025
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No