



CRR-2357-2024

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

CRR-2357-2024 (O&M)

Date of Decision: 07.01.2025

Jogender Singh @ Joginder Pal Singh
Versus

..... Petitioner

Chand and Sons Bhatta Company

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Naveen Kumar, Advocate, for the petitioner.

Mr. Sandeep Yadav, Advocate, for the respondent.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Rajesh Bhardwaj, J. (Oral)

1. Present revision petition has been filed by the petitioner impugning the order of conviction and sentence dated 11.06.2019 passed by learned trial Court and order dated 12.11.2024, whereby, appeal filed by the petitioner against the order dated 11.06.2019, was dismissed.

2. The case as enumerated from the facts is that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') was filed against the petitioner by the respondent on the allegations that on 15.07.2015 he took a friendly loan of Rs.5,12,050/- on 2% per month interest from the complainant. In order to clear his debt, the petitioner issued a cheque bearing No.0583111 dated 17.10.2016 amounting to Rs.5,12,050/- drawn on Rohtak Central Co-Op Bank Ltd., Rohtak, which on presentation by the complainant-respondent returned back with the remarks 'Limit has been expired'. Thereafter, the respondent served legal notice dated 11.11.2016 upon the petitioner, but despite that he failed to make the payment and ultimately complaint was filed. After trial, the trial Court



convicted the petitioner and sentenced him to undergo simple imprisonment for a period of 01 year 03 months. The petitioner was also burdened with fine of Rs.6,10,000/- alongwith interest @ 6% per annum on the cheque amount w.e.f. 17.10.2016. Out of total fine, Rs.6,04,563/- was ordered to be paid to the complainant-respondent and rest of the amount i.e. Rs.5,437/- was ordered to be deposited as fine with the Court. Aggrieved by the conviction and sentence awarded by learned JMIC, the petitioner assailed the same by way of filing an appeal before the learned Appellate Court. Learned Appellate Court, finding no merit in the appeal, dismissed the same by upholding the conviction and sentence of the petitioner vide its order dated 12.11.2024. Hence, the petitioner has approached this Court by way of filing the present revision petition challenging the above said orders.

3. Learned counsel for the petitioner has submitted that now the parties have settled the dispute and entire amount has been paid by the petitioner to the complainant-respondent and now nothing is due against him. He further submits that in view of the settlement effected between the parties, the petitioner be allowed to compound the offence and he be acquitted of the charges under Section 138 of the Act and the orders under challenge in the present revision petition be set aside. He has placed reliance on the law laid down by Hon'ble Supreme Court in **Raj Reddy Kallem vs. The State of Haryana and another**, Law Finder Doc Id# 2557645, wherein, it has been held that there is no bar to seek the compounding of the offence at later stage of criminal proceedings including after conviction. He has further submitted that the petitioner is 75 years old person having no source of income and he is unable to pay the



compensation as per requirement in the judgment of Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayad Babalal H. 2010(2) RCR (Crl.) 851**. Thus, he prays for dispensing with the condition of deposit of 15% of the compensation amount keeping in view the poor financial condition of the petitioner.

4. Learned counsel for the respondent has affirmed the contentions raised by learned counsel for the petitioner with regard to the settlement and has submitted that complainant-respondent has no objection, if the present petition is allowed and the orders under challenge are set aside/quashed.

5. Heard. As the parties have compromised the matter and have buried the hatchet, no purpose would be served by punishing the petitioner, who has already honoured the terms of the compromise, which fact has been affirmed by learned counsel for respondent-complainant. In **Raj Reddy Kallem's** case (supra), it has been held that the accused must try for compounding of the offence at the initial stages instead of later stages, however, there is no bar to seek the compounding of offence at later stage of criminal proceedings including after conviction.

6. So keeping in view above facts and the law settled by Hon'ble Supreme Court, the petitioner is allowed to compound the offence and he is ordered to be acquitted of the charges framed against him. As a consequences, the order dated 12.11.2024 passed by learned Additional Sessions Judge, Fast Track Court, Rohtak and order dated 11.06.2019 passed by JMIC, Rohtak, convicting and sentencing the petitioner under Section 138 of the NI Act, are set aside.

7. Taking into consideration the contention raised by learned counsel for the petitioner regarding poor financial condition of the petitioner, this Court deems it appropriate to dispense with the condition of deposit of 15% of the cheque amount as compensation by the petitioner and he is allowed to compound the offence.
8. Revision petition is allowed in above terms and the pending applications are also disposed of. Petitioner be set at liberty, if not required in any other case.

07.01.2025

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

Whether Reportable

:

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Yes/No

Yes/No