2025:PHHC:058421

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2516-2024 (O&M)
Date of Decision:30.04.2025

Kuldeep Singh …Petitioner

Vs.

Jasmandeep Singh …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Ms. Manmohan Kaur, Advocate for
Mr. Amitoj Singh Dhaliwal, Advocate
for the applicant/petitioner.

Mr. Arsh Aggarwal, Advocate, for the respondent.

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N.S.Shekhawat J.

1. The petitioner had filed the present revision petition against the impugned judgment dated 06.11.2024 passed by the Court of Additional Sessions Judge, Ludhiana and the impugned judgment and order dated 23.05.2018 passed by the Court of Judicial Magistrate 1st Class, Ludhiana, whereby, the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') and was sentenced as under:-

> *"(i) Under Section 138 of Negotiable Instrument Act convict/accused Kuldeep Singh shall undergo rigorous imprisonment for a period of two years.*
> *(ii) Under Section 357 (3) Cr.P.C., the convict shall pay*

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compensation of Rs.5,00,000/- to the complainant who can recover entire amount either from accused or from her personal properties under law".

2. During the pendency of the present revision petition, the petitioner filed an application (CRM 8986 of 2025) under Section 147 of the Act with a prayer to compound the offence under Section 138 of the Act. As per the petitioner, the entire dispute in the present case was for an amount of Rs.9 lacs and the petitioner had already paid a sum of Rs.4 lacs to the respondent. However, a compromise deed dated 02.12.2024 was executed between the parties and the petitioner had handed over a bank draft bearing No.020275 dated 17.02.2025 drawn on HDFC Bank for a sum of Rs. 5 lacs to the respondent as full and final settlement. Thus, it was prayed that the parties may be allowed to compound the offence and the petitioner may be acquitted of the notice of accusation.

3. A short reply had been filed by way of an affidavit of the respondent and the same was taken on record.

4. Learned counsel for the respondent submits that the matter has been settled between the parties with regard to the entire litigation and the respondent had received total sum of Rs.9 lacs from the petitioner. He had no objection in case the petitioner was ordered to be acquitted by this Court.

5. I have heard learned counsel for the parties and perused the record.

6. The Hon'ble Supreme Court has held in the matter of ***Damodar S. Prabhu Vs. Sayed Babalal H., AIR 2010 (SC) 1907: 2010(2) RCR (Criminal 851)*** as follows:-

15. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged

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this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(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.

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(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority.

16. We are also in agreement with the Learned Attorney General's suggestions for controlling the filing of multiple complaints that are relatable to the same transaction. It was submitted that complaints are being increasingly filed in multiple jurisdictions in a vexatious manner which causes tremendous harassment and prejudice to the drawers of the cheque. For instance, in the same transaction pertaining to a loan taken on an installment basis to be repaid in equated monthly installments, several cheques are taken which are dated for each monthly installment and upon the dishonor of each of such cheques, different complaints are being filed in different courts which may also have jurisdiction in relation to the complaint. In light of this submission, we direct that it should be mandatory for the complainant to disclose that no other complaint has been filed in any other court in respect of the same transaction. Such a disclosure should be made on a sworn affidavit which should accompany the complaint filed under Section 200 of the CrPC. If it

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is found that such multiple complaints have been filed, orders for transfer of the complaint to the first court should be given, generally speaking, by the High Court after imposing heavy costs on the complainant for resorting to such a practice. These directions should be given effect prospectively.

17. We are also conscious of the view that the judicial endorsement of the above quoted guidelines could be seen as an act of judicial law-making and therefore an intrusion into the legislative domain. It must be kept in mind that Section 147 of the Act does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under Section 320 of the CrPC cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving Section 138 of the Act. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the Court is spent on the trial of these cases and the parties are not liable to pay any Court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. 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. Bona fide litigants should of course contest the proceedings to their logical end. Even in the past, this Court has used its power to do complete justice under Article 142 of the Constitution to frame guidelines in relation to subject-matter where there was a legislative vacuum.

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7. It is not in dispute that the respondent had initiated the criminal prosecution of the petitioner on account of dishonour of a cheque, however, now the learned counsel for the parties have made statements that the offence may be ordered to be compounded. Consequently, by invoking the powers of this Court under Section 147 of the Negotiable Instruments Act read with Section 482 Cr.PC, the parties are allowed to compound the offence and the petitioner is ordered to be acquitted of notice of accusation.

8. The impugned judgment dated 06.11.2024 passed by the Court of Additional Sessions Judge, Ludhiana and the impugned judgment and order dated 23.05.2018 passed by the Court of Judicial Magistrate 1st Class, Ludhiana, are ordered to be set aside.

9. The petitioner is also directed to deposit an amount of Rs.75,000/-, as cost, which is 15% of the cheque amount, within a period of two months, from today with the Punjab Legal Services Authority. In case the cost is not deposited with the Punjab State Legal Service Authority within a period of two months from today, the present petition shall be ordered to be dismissed.

10. All other pending applications if any, are also disposed off, accordingly.

(N.S.SHEKHAWAT)
JUDGE

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No

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