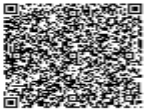


2025:PHHC:017820



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

279

CRM M-62908 of 2024
Date of Decision:03.02.2025

Amit Kapoor ...Petitioner
Versus
Parminder Singh ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jaideep Verma, Advocate, for the petitioner.

Mr. Anil Saini, Advocate, for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 to quash the Criminal Complaint No. COMA/9660/2017 (Annexure P-1) titled as **“Parminder Singh Vs. Deepak Kapoor”**, and judgment dated 30.09.2019 (Annexure P-2) passed by the Court of Judicial Magistrate 1st Class, Ludhiana in view of the compromise/settlement deed dated 27.11.2024 (Annexure P-4).
2. Learned counsel for the petitioner contends that the respondent had instituted a Criminal Complaint No. COMA/9660/2017 (Annexure P-1) titled as **“Parminder Singh Vs. Deepak Kapoor”** in the Court of Judicial Magistrate 1st Class, Ludhiana, against the petitioner under Section 138 of the Negotiable

Instruments Act 1881 (hereinafter to be referred as '**the Act**') for dishonour of a cheque bearing No. 932789 dated 06.06.2017 for a sum of Rs. 24,50,000/- drawn on United Bank of India, Ludhiana.

3. Vide judgment and order dated 30.09.2019 passed by the Court of Judicial Magistrate 1st Class, Ludhiana (Annexure P-2), the petitioner was convicted for the offence punishable under Section 138 of the Act and was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 2,000/- alongwith default stipulation. Complainant was also held entitled to compensation to the tune of the amount of cheque only after the decision of the appeal or revision.

4. Feeling aggrieved, the petitioner assailed the judgment and order (Annexure P-2) before the Court of Sessions Judge, Ludhiana, in Criminal Appeal No. 2817 of 2019 titled as “**Amit Kapoor Vs. Parminder Singh**”. The matter is still pending before the appellate Court. Learned counsel further contends that on 28.11.2024, a meeting was convened and with the intervention of the common friends and respectables, the parties had resolved all their disputes. Accordingly, a compromise deed/settlement deed dated 28.11.2024 was signed by the petitioner as well as respondent (Annexure P-4). In pursuance of the compromise deed (Annexure P-4), the petitioner has made the payment to the respondent and the respondent also admitted that he had received the

entire payment and nothing was due against the present petitioner. Even, the respondent executed a receipt and affidavits dated 27.11.2024 (Annexures P-5 to P-7), in this regard. He thus contends that the parties may be allowed to compound the offence and the petitioner may be acquitted of the notice of the accusation on the basis of the compromise between the parties.

5. On the other hand, a short report has been filed by the respondent and the same is taken on record.

6. Learned counsel for the respondent submits that the parties have settled all their disputes and he has no objection in case the impugned Criminal Complaint No. COMA/9660/2017 (Annexure P-1) and the judgment and order dated 30.09.2019 (Annexure P-2) are set aside by this Court and the petitioner is acquitted by this Court.

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

8. 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 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.

(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 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”.

9. In the present case also, both the parties have admitted the fact that they have compromised the matter with each other and a compromise deed (Annexure P-4) has been signed by both the parties. Even, the respondent has made a statement that the offence may be ordered to be compounded and he has no objection, in case the petitioner is ordered to be acquitted on the basis of the compromise between the parties. Consequently, by invoking the powers of this Court under Section 147 of the Act read with Section 482 Cr.P.C., the parties are allowed to compound the offence and the petitioner is ordered to be acquitted of the notice of accusation.

10. As a sequel to the above discussion, the impugned judgment and order dated 30.09.2019 (Annexure P-2) passed by the Court of JMIC, Ludhiana is ordered to be set aside.

11. The petitioner is also directed to deposit a cost of Rs. 1,00,000/- within a period of 02 months from today with Punjab State Legal Services Authority. In case, the cost is not deposited with the Punjab Legal Services Authority within two months from today, the present petition shall be deemed to be dismissed.

12. All pending applications, if any, are disposed off, accordingly.

03.02.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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