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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.REV.P. 518/2019 & CRL.M.As. 18536/2021, 675/2022, CRL.M.(BAIL) 787/2019

ANIRUDH KUMAR SHARMA .....Petitioner

Through:

versus

THE STATE NCT OF DELHI & ANR .....Respondents

Through: Mr. Digam Singh Dagar, APP for R-1.
Mr. Ajay Sharma, Respondent No. 2 (through VC).

\+ CRL.REV.P. 519/2019 & CRL.M.As. 18527/2021, 681/2022, CRL.M.(BAIL) 788/2019

ANIRUDH KUMAR SHARMA .....Petitioner

Through: Mr. Zainul Abedeen, Advocate.

versus

THE STATE NCT OF DELHI & ANR .....Respondents

Through: Mr. Digam Singh Dagar, APP for R-1.
Mr. Ajay Sharma, Respondent No. 2 (through VC).

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 17.04.2025

1. The present petitions filed under Sections 438 and 442 of the

Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Sections 397 and 401 of the Code of Criminal Procedure, 1973[1]) are directed against two separate orders dated 27th March, 2019 passed by the Special Judge (PC Act), CBI-01, South, Saket Courts. By the said orders, the Special Judge upheld the two separate judgments of conviction both dated 3rd October, 2018 and orders on sentence both dated 5th December, 2018, in CC No. 542/2016 and CC No. 932/2016, respectively. The Petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881[2] as under:

(a) In CC No. 542/2016, the Petitioner was sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of INR 20,00,000/-, in default whereof, to undergo further simple imprisonment of 4 months;

(b) In CC No. 932/2016, the Petitioner was sentenced to undergo simple imprisonment for a period of 3 months and to pay a fine of INR 15,00,000/-, in default whereof, to undergo further simple imprisonment of 3 months.

2. During the pendency of the present proceedings, the parties were referred to Delhi Mediation Centre, Dwarka Courts, New Delhi wherein they have settled their disputes and executed a Settlement Deed dated 6th July, 2024. Pursuant thereto, the Respondent has received cumulative amount of INR 11 lakhs towards settlement of all claims which form the subject matter of the cheques for which the proceedings under Section 138 of the NI Act were initiated.

3. The Respondent, Mr. Ajay Sharma, appears through the video-conferencing mechanism and confirms the receipt of the aforesaid amount. He further states that he has no objection to the offence being compounded

[1] "Cr.P.C."
[2] "NI Act"

and the conviction being set aside. He affirms that the said statement is being made voluntarily without any coercion, pressure or undue influence.

4. The Court has considered the afore-noted. Section 147 of the NI Act, provides that every offence punishable under the Act are compoundable. It is no longer *res integra* that offences under the NI Act, including offence under Section 138, can be compounded at any stage of the proceedings. Although an attempt for compounding of the offence under NI Act should be made at the initial stage, however, there is no bar against seeking compounding of the offence even after conviction.[3]

5. In ***Damodar S. Prabhu v. Sayed Babalal H***.,[4] the Supreme Court had formulated guidelines for compounding the offence under Section 138 NI Act and emphasized the imposition of cost for belated compounding. The relevant observations read as follows:

> *"21. 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:*
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> ***THE GUIDELINES***
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> *(i) In the circumstances, it is proposed as follows:*
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> *(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*

[3] ***K.M Ibrahim v. K.P Mohammed & Anr.,*** (2010) 1 SCC 798
[4] 2010 (2) SCC (Cri) 1328

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.

xxx ... xxx ... xxx

25. ***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.*****"**

[Emphasis Supplied]

6. In terms of the guidelines laid down by the Supreme Court, the offence under Section 138 of the NI Act forming the subject matter of the complaints is compounded, subject to the payment of cost of INR 5,000/- in both CC No. 542/2016 and CC No. 932/2016, to be deposited with the Delhi Police Welfare Fund.

7. Proof of deposit of cost to be submitted with the Trial Court.

8. Subject to above, the sureties and the FDRs deposited with the Trial Court are directed to be released.

9. With the above directions, the present petitions, along with pending applications, are disposed of.

SANJEEV NARULA, J

APRIL 17, 2025
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