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

\+ CRL.REV.P. 574/2019, CRL.M.A. 25968/2022, CRL.M.(BAIL) 866/2019

SHAKUNTLA .....Petitioner

Through: Mr. Ashutosh Kaushik and Mr. Sanjay Singh, Advocates.

versus

KANWAR PAL SINGH .....Respondent

Through: Mr. Charan Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **08.01.2025**

1. This Court, in the previous order dated 06th September, 2024, had directed the parties to appear before the Delhi High Court Mediation & Conciliation Centre in order to amicably resolve the dispute. Pursuant to this direction, the Revision Petitioner and the Respondent have executed a Settlement Agreement dated 04th December 2024 before the said Centre. A copy of the Settlement Agreement has been placed on record. In accordance with the terms of the Agreement, the Petitioner has agreed to pay a settlement amount of INR 1 lakh to the Respondent in instalments, as delineated in Paragraph No. 2 of the Settlement Agreement.

2. Additionally, the Magsitrate, in the impugned sentencing order dated 27th October 2018, had directed the Petitioner to pay a fine of INR 5,000/- to the State. Under the terms of the Settlement Agreement, the parties have agreed to jointly request this Court for the waiver of the aforementioned fine. In light of this, counsel for the Petitioner makes a request for the waiver of the INR 5,000/- fine imposed under the order of sentence.

3. The Court has considered the submissions made by the parties. The offence under Section 138 of the NI Act is compoundable in nature. Even though an attempt for compounding of the offence under NI Act should be made at an earlier stage of proceedings rather than at a later stage, there is no impediment to seeking compounding of the offence even after conviction.[1] The Supreme Court, in ***Damodar S. Prabhu v. Sayed Babalal H.***,[2] emphasised that the compensatory aspect of the proceedings under the NI Act takes precedence over the punitive aspect. In this regard, the Court stipulated certain guidelines for compounding the offences under the NI Act, as follows:

> *"4... What must be remembered is that the dishonour of a cheque can be best described as a regulatory offence that has been created to serve the public interest in ensuring the reliability of these instruments. The impact of this offence is usually confined to the private parties involved in commercial transactions.*
> *xxx*
> ***18. It is quite obvious that with respect to the offence of dishonour of cheques, it is the compensatory aspect of the remedy which should be given priority over the punitive aspect.*** *There is also some support for the apprehensions raised by the learned Attorney General that a majority of cheque bounce cases are indeed being compromised or settled by way of compounding, albeit during the later stages of litigation thereby contributing to undue delay in justice delivery.* ***The problem herein is with the tendency of litigants to belatedly choose compounding as a means to resolve their dispute...***
> *xxx*
> *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*

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[1] Raj Reddy Kallem v. State of Haryana, (2024) 8 SCC 588; K.M. Ibrahim v. K.P. Mohammed, (2010) 1 SCC 798.
[2] (2010) 5 SCC 663.

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.

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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)

4. Pursuant to the aforesaid guidelines, the High Court is required to impose costs of 15% of the cheque amount. However, the Court is vested with the discretion to reduce the costs, depending on the specific circumstances of the case. In the present matter, considering the financial constraints faced by the Petitioner and the inability to deposit the required amount, no costs are imposed on him.

5. As regards the fine imposed on the Petitioner by the Magistrate, it is noted that, since the settlement amount is to be paid in instalments over a period of several months, the Court is of the view that the request for the waiver of INR 5,000/- should be considered only after the entire settlement amount has been paid to the Respondent.

6. In view of the above, the petition is allowed, and the following directions are issued:

a. The parties to the Settlement Agreement shall remain bound by the terms thereof. The Petitioner shall make the payment to Respondent No. 2, as specified in the Agreement.

b. Upon full payment of the settlement amount, the offence for which the Petitioner was convicted, shall stand compounded.

c. Till such time, the order of sentence dated 27th October, 2018 shall not be executed.

d. In the event of default, the parties shall take recourse to the terms specified in the Settlement Agreement, in accordance with law.

e. The Petitioner shall be at liberty to apply to the Court for waiver of the cost of INR 5,000/-, as imposed in the sentencing order, once the entire payment has been made.

7. With the above directions, the present petition is disposed of along with pending application(s).

SANJEEV NARULA, J

JANUARY 8, 2025
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