HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 216/2024

Vijay Pratap Ramdev S/o Sh. Narsingh Pratap Ramdev, Aged About 44 Years, Commercial Address- C/o A To Z Kirana And Provision Store, Jalap Mohalla, Jodhpur, At Present R/o C/o Pradeep Joshi, Phula Road, Khangal Mohalla, Near Vyas Park, Navchokiya, Jodhpur.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Rameshwar Lal S/o Jetha Ram, R/o 4-Kh-8, Madhuban Housing Board, Jodhpur.

----Respondents

For Petitioner(s)	:	Mr. Anil Vyas
For Respondent(s)	:	Ms. Sonu Manawat, PP Mr. M.P. Goswami, for respondent No.2

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

20/01/2025

An application (Inward No.01/24) has been filed by the counsel for the petitioner for taking the compromise on record.

For the reasons mentioned in the application, the same is hereby allowed.

Compromise filed by the petitioner is hereby taken on record.

Heard on criminal revision petition.

This revision petition has been filed against the judgment dated 11.12.2023 passed by the learned Addl. Sessions Judge No.5 Jodhpur Metro, in Criminal Appeal No.401/2022 whereby the appeal of the petitioner has been dismissed and the judgment

dated 14.09.2022 passed by the learned Metropolitan Magistrate No.9, Jodhpur Metro, for offence under Section 138 N.I. Act has been affirmed and the petitioner sentenced to undergo six months' simple imprisonment along with fine in the sum of Rs.2,25,000/-.

Counsel for the petitioner submits that during the pendency of the revision petition, the petitioner and complainant-respondent No.2 have entered into a compromise in the spirit of Lok Adalat and the respondent No.2 has received all the amount from the petitioner and does not want to proceed in the matter. It is stated that since the parties have entered into compromise and amicably settled their dispute, therefore, the sentence of imprisonment awarded to the petitioner may be set aside.

Counsel for the respondent No.2 concurs the fact of compromise arrived at between the parties.

Having considered the facts and circumstances of the case, since the parties have settled the dispute and complainant respondent has received the sum towards full and final settlement of dispute on the satisfaction of the complainant, therefore, in the light of provisions contained in Section 147 of NI Act, so also law laid down by the Hon'ble Apex Court in the case of *Damodar S. Prabhu Vs. Sayed Babalal H. reported in 2010 (5) SCC 663*, the sentence awarded to the petitioner for offence under Section 138 NI Act is liable to be set aside. However, since the compromise has been arrived at after rejection of the appeal preferred by the petitioner, a cost of 15% of the cheque amount deserves to be imposed upon the petitioner in the light of the decision rendered by the Hon'ble Apex court in the case of Damodar S. Prabhu (Supra).

Accordingly, the conviction and sentence of imprisonment awarded to the petitioner for offence under Section 138 NI Act vide judgments dated 11.12.2023 & 14.09.2022 are hereby set aside on the basis of the aforesaid compromise subject to deposition of cost of 15% of the cheque amount. The cost shall be deposited by the petitioner with the Rajasthan State Legal Services Authority, Jodhpur within a period of two months from today. In case the cost of 15% of the cheque amount is not deposited by the petitioner within the stipulated period, the revision petition may be listed before this Court for passing appropriate orders.

The revision petition is disposed of accordingly. Suspension of Sentence application is also decided.

A copy of this order be sent to the office of Legal Services Authority at Jodhpur.

(MANOJ KUMAR GARG),J

114-Ishan/-