HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Revision Petition No. 203/2025

Vinod Kumar S/o Shri Balram, Aged About 34 Years, R/o Chak 6 Kwd, Rawatsar, Tehsil Rawatsar, Dist. Hanumangarh,raj.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Rajesh Kumar S/o Shri Shreeram, R/o Ward No. 23, Rawatsar, Tehsil Rawatsar, Dist. Hanumangarh,raj.

----Respondents

For Petitioner(s)	:	Mr. T.C. Sharma Mr. Abhishek Agarwal
For Respondent(s)	:	Mr. Kuldeep Singh Kumpawat, Asst. to Mr. Deepak Choudhary, AAG Mr. Pratap Singh, for respondent No.2

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

14/02/2025

This revision petition has been filed against the judgment dated 21.01.2023 passed by the learned Addl. Sessions Judge No.1, Nohar, District Hanumangarh, in Criminal Appeal No.115/2018 vide which, the appeal filed by the petitioner was dismissed and the judgment dated 03.08.2018 passed by the learned Judicial Magistrate Rawatsar, District Hanumangarh, in Criminal Case No.162/2014 (CIS No.2307/2014) convicting and sentencing the petitioner for offence under Section 138 N.I. Act has been affirmed. The petitioner was sentenced to undergo one year’s simple imprisonment along with fine in the sum of Rs.3,00,000/- and in default of payment of fine, further undergo one month’s additional Simple imprisonment.

Learned counsel for the petitioner submits that 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 with the matter, therefore the sentence of imprisonment awarded to the petitioner may be set aside. The compromise dated 30.12.2024 arrived in between the parties is placed on record.

Learned counsel for respondent No.2 concurs with the facts stated by the counsel for the petitioner.

I have considered the arguments advanced by counsel for the parties and perused the compromise dated 30.12.2024.

Having considered the facts and circumstances of the case, since the parties have settled their dispute and complainant respondent No.2 has accepted the sum towards full and final settlement of dispute on the satisfaction of the complainant and in the light of provisions of Section 147 of NI Act and in view of 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 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 judgment dated 03.08.2018 and 21.01.2023 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 before the Rajasthan State Legal Services Authority, Jodhpur within a period of one month from today. In case, the cost is not deposited by the petitioner before the Rajasthan State Legal Services Authority, Jodhpur within the stipulated period, the revision petition may be listed before this Court for passing appropriate orders.

The revision petition is allowed in the above terms. Suspension of Sentence application is also decided accordingly.

Copy of this order be sent to the Rajasthan State Legal Services Authority, Jodhpur.

(MANOJ KUMAR GARG),J

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