IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.184 of 2012
Date of Decision: 27.04.2026

Akash Sood & Anr.

.....Petitioners

Versus

M/s Mam Raj Ramesh Chand Aggarwal & Anr.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the petitioners: Mr. Deepak Gupta, Advocate.

For the Respondents: Mr. N.S. Chandel, Senior Advocate with Mr. Vinod Kumar Gupta, Advocate, for respondent No.1.

Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for respondent No.2-State.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition filed under Section 397 read with Section 401 of Cr.P.C, lays challenge to judgment dated 03.09.2012 passed by learned Additional Sessions Judge, Shimla, H.P., in Criminal Appeal No.57-S/10 of 2008, affirming the judgment of conviction and order of sentence dated 03.09.2008 passed by learned Judicial Magistrate First Class, Court No.II, Shimla, H.P., in Criminal complaint No.347/3 of 2000, whereby learned Court below, while holding the petitioner-accused ***(hereinafter 'accused')*** guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act ***(for short 'Act')*** convicted and sentenced him to undergo simple imprisonment for a period

of three months and pay compensation to the tune of Rs.70,000/- to the respondent No.1-complainant ***(hereinafter 'complainant').***

2. Precisely, the facts of the case as emerge from the pleadings as well as other material adduced on record are that complainant filed a complaint under Section 138 of the Act in the competent court of law, alleging therein that accused with a view to discharge his lawful liability issued cheque amounting to Rs.50,000/- in favour of the complainant, however, the same was dishonoured with remarks "Insufficient Funds". Since accused failed to make the payment good within the time stipulated in the legal notice, complainant was compelled to initiate proceedings under Section 138 of the Act before the competent Court of law.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment and order dated 03.09.2008, held the accused guilty of having committed offence punishable under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given hereinabove.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the learned Court below, accused preferred an appeal in the court of learned Additional Sessions Judge, Shimla, H.P., which also came to be dismissed vide judgment dated 03.09.2012, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, accused has approached this Court by way of instant proceedings, seeking therein his

acquittal after setting aside the judgments of conviction recorded by the courts below.

5. Before the case at hand could be heard and decided on its own merits, learned counsel for the accused, on instructions of the accused, who is present in person, stated that accused is ready and willing to pay the compensation amount awarded by learned Court below. He apprised this Court that without admitting his liability, since the initiation of complaint, accused has been requesting the complainant to accept the afore amount, but same has not been accepted till date for no justifiable reasons, as such, this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence.

6. To the contrary, Mr. N.S. Chandel, learned Senior Counsel, on instructions of the complainant, who is present in person, stated that since complainant was unnecessary compelled to engage in unwarranted litigation with the accused for realization of his own money, this Court, while considering prayer for compounding the offence, may award adequate compensation in favour of the complainant. Complainant stated on oath before this Court that though he has been constantly harassed and tortured by the accused, but yet he of his own volition and without any external pressure is ready to compromise the matter subject to payment of adequate compensation. His statement is taken on record.

7. Since parties have resolved to settle the dispute amicably *inter se* them, as has been taken note hereinabove, coupled with the fact that complainant has no objection in compounding the offence, in the event of

his being awarded adequate compensation, this Court sees no impediment in accepting the prayer made on behalf of the accused for compounding the offence, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex Cou*rt in* ***Damodar S. Prabhu V. Sayed Babalal H. (2010) 5 SCC 663***, wherein it has been categorically held that court, while exercising power under Section 147 of the Act, can proceed to compound the offence even after recording of conviction by the courts below.

8. Consequently, in view of the discussion made hereinabove as well as law taken into consideration, present matter is ordered to be compounded and impugned judgments of conviction and order of sentence dated 03.09.2012 and 03.09.2008, passed by the learned Courts below are quashed and set-aside and the accused is acquitted of the charge framed against him under Section 138 of the Act. Interim order, if any, is vacated. Bail bonds, if any, are discharged. The petition is disposed of alongwith pending applications, if any.

9. Amount, if any, lying deposited by the accused with the learned trial court is ordered to be released in favour of the complainant by remitting the same in its bank account, details whereof shall be furnished within a period of one week, if not already released.

10. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of his own amount, coupled with the fact that case is pending for more than two decades, this Court deems it fit to award Rs.50,000/- as compensation, in addition to amount of

compensation awarded by learned trial Court, which shall be paid to the complainant within four weeks from today, failing which, he shall render himself liable for penal consequences as well as contempt of Court. Ordered accordingly.

(Sandeep Sharma)
Judge

April 27, 2026
(sunil)