IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No.226 of 2026
Date of Decision: 28.4.2026

Sandeep Kumar

.....Petitioner

Versus

M/s Maginand Filling Station

.....Respondent

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?
For the Petitioner: Mr. Aashish Kumar, Advocate.
For the Respondent: Mr. Vinod Tomar, Advocate.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition, lays challenge to judgment dated 5.3.2026, passed by the learned Sessions Judge, Sirmaur District at Nahan, Himachal Pradesh, in Criminal Appeal No. 100 of 2025, affirming judgment of conviction and order of sentence dated 28.8.2025, passed by the learned Judicial Magistrate First Class, Nahan, District Sirmaur, Himachal Pradesh, in Criminal Case No.204/3 of 2023, whereby the learned trial Court while holding the petitioner-accused guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act (in short the "Act"), convicted and sentenced him to undergo simple imprisonment for a period of one year and pay compensation to the tune of Rs. 16,50,000/- to the respondent-complainant (herein after referred to as the "complainant").

2. Precisely, the facts of the case, as emerge from the record are that complainant instituted a complaint under Section 138 of the Act, in the competent court of law, alleging therein that accused with a view to discharge his liability issued two cheques amounting to Rs. 7,00,000/- and Rs.8,00,000/- in favour of the complainant, but fact remains that the aforesaid cheques on their presentation, were dishonoured on account of insufficient funds. Since accused failed to make the payment good within the time stipulated in the legal, respondent/complainant was compelled to initiate proceedings before the competent Court of law under Section 138 of the Act.

3. Learned trial Court on the basis of pleadings as well as evidence adduced on record by the respective parties, vide judgment/order dated 28.8.2025, held the petitioner-accused guilty of having committed offence under Section 138 of the Act and accordingly, sentenced him as per the description given herein above.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the court below, accused preferred an appeal before learned First Appellate Court, which also came to be dismissed vide judgment dated 5.3.2026, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present petitioner-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. Mr. Aashish Kumar, learned counsel for the petitioner-accused states that parties have settled their dispute amicably. He submits that since petitioner has paid the amount of settlement i.e. Rs.13.00 lakh to the respondent/complainant, this Court while exercising power under Section 147 of the Act, may compound the offence and acquit the accused.

6. Respondent-complainant Mr. Nikhil, who is present in the Court and is duly represented by Mr. Vinod Tomar, Advocate, states on oath that he of his own volition and without there being any external pressure has entered into compromise with the petitioner. He states that since he has received the amount, he shall have no objection in compounding the offence and acquitting the accused from the charges framed against him under Section 138 of the Act.

7. Mr. Vinod Tomar, learned counsel appearing for the respondent-complainant, submits that since respondent-complainant was unnecessarily dragged into litigation for realization of its own money, this Court may also award some litigation cost.

8. Having taken note of the fact that entire amount of compensation stands paid or agreed to be paid to the respondent-complainant and respondent has no objection in compounding the offence,

this Court sees no impediment in accepting the prayer made on behalf of the petitioner for compounding of offence, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex Court *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.

9. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 28.8.2025 and 5.3.2026, passed by the learned courts below are quashed and set-aside and the petitioner-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. Since respondent-complainant was unnecessarily compelled to institute legal proceedings against the accused that too for realization of its own money, this court deems it fit to direct the accused to pay sum of Rs. 5,000/- as litigation cost, to the respondent-complainant, payable within four weeks. Ordered accordingly. Apart from above, petitioner shall also be liable to pay 5,000/- as compounding fee with the Himachal Pradesh State Legal Services Authority, within aforesaid period. The petition is disposed of along with pending applications, if any.

April 28, 2026 **(Sandeep Sharma),**
(manjit) **Judge**