IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.244 of 2026
Date of Decision: 28.04.2026

Sarita Rana .....**Petitioner**

Versus

Ashwani Kumar .....**Respondent**

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

For the Petitioner: Mr. Sunil Kumar Kaundal, Advocate.

For the Respondent: Mr. Rajendra Gulati, Advocate.

Sandeep Sharma, J. *(Oral)*

Cr.MP(M) No.721 of 2026

By way of instant application filed under Section 5 of Limitation Act, prayer has been made on behalf of the applicant/ petitioner for condonation of delay in maintaining the accompanying criminal revision petition, which is barred by limitation.

2. Having carefully perused the averments contained in the application, which is duly supported by an affidavit, this Court finds no impediment in accepting the prayer, especially when delay caused in maintaining accompanying criminal revision petition does not appear to be intentional or willful, rather same has occurred on account of circumstances, which were completely beyond the control of the applicant/petitioner, as such, the same deserves to be condoned.

3. In view of above, delay, which has been otherwise sufficiently explained is condoned. The application is disposed of.

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4. Instant criminal revision petition filed under Section 442 of Bharatiya Nagrik Suraksha Sanhita, lays challenge to judgment dated 20.08.2022 passed by learned Additional Sessions Judge-III, Kangra at Dharamshala, camp at Palampur, District Kangra, H.P., in Criminal Appeal No.41-P/X/2018, affirming the judgment of conviction dated 20.08.2018 and order of sentence dated 23.08.2018 passed by learned Additional Chief Judicial Magistrate, Palampur, District Kangra, H.P., in Criminal Complaint No.86-III/2016, whereby court below, while holding the petitioner-accused ***(in short "accused")*** guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act ***(in short 'Act')*** convicted and sentenced him to undergo simple imprisonment for a period of six months and pay compensation to the tune of Rs.3,60,000/- to the respondent-complainant ***(in short 'complainant')*** .

5. Precisely, the facts of the case as emerge from the 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 bearing No.762688 dated 19.01.2016 amounting to Rs.3,24,000/- in favour of the complainant, but fact remains that aforesaid cheque on its presentation, was dishonoured with remarks "Exceeds Arrangement/Insufficient funds". Since accused failed to make the payment good within the time stipulated in the legal notice, complainant was compelled to initiate proceedings before the competent Court of law under Section 138 of the Act.

6. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 20.08.2018/ 23.08.2018, held the accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given hereinabove.

7. 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-III, Kangra at Dharamshala, camp at Palampur, District Kangra, H.P., which came to be dismissed vide judgment dated 20.08.2022, 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.

8. Before case at hand could be heard and decided on its own merit, parties have entered into compromise, whereby they have resolved to settle their dispute amicably *inter se* them.

9. Today during proceedings of the case, learned counsel for the accused, on instructions, states before this Court that accused has paid the entire amount of compensation awarded by learned trial Court to the complainant. He states that on account of aforesaid amicable settlement arrived *inter se* parties, this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused from the charges framed against him.

10. Mr. Rajendra Gulati, Advocate, while putting in appearance on behalf of the complainant, states that he has instructions to depose on behalf of the complainant. He states that complainant has compromised the matter with the accused and as per compromise, complainant has received the entire amount of compensation, as such, he shall have no objection in compounding the offence, but some amount qua litigation charges may be awarded in favour of complainant because it was unnecessarily dragged into litigation for realization of its own money. His statement is taken on record.

11. 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, 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.

12. 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 sentence dated 20.08.2022 and 20.08.2018/ 23.08.2018, 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.

13. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of his own amount, accused is directed to deposit Rs.5,000/- with the HP State Legal Service Authority as compounding fee and Rs.5,000/- as litigation charges payable to the complainant within a period of eight weeks, failing which, she shall render herself liable for penal consequences as well as contempt of court.

14. Since the accused is behind bars, Registry is directed to prepare the release warrants and send the same to the concerned Superintendent of Jail, forthwith, enabling the aforesaid authority to release the accused immediately, subject to verification that he is required in any other case.

(Sandeep Sharma)
Judge

April 28, 2026
(sunil)

SUNIL KUMAR
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