IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.11 of 2025
Date of Decision: 31.03.2026

Asha Sharma **.....Petitioner**

Versus

Nirmal Thakur **.....Respondent**

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

For the petitioner: Ms. Shine Sehgal, Advocate vice Mr. Mohar Singh, Advocate.

For the Respondent: Ms. Heena Chauhan, Advocate.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition filed under Section 438 read with Section 442 of Bharatiya Nagrik Suraksha Sanhita, 2023, lays challenge to judgment dated 09.09.2024 passed by learned Sessions Judge, Shimla, District Shimla, H.P., in Criminal Appeal No.65-S/10 of 2024, affirming the judgment of conviction and order of sentence dated 13.05.2024 passed by learned Chief Judicial Magistrate, Shimla, District Shimla, H.P., in Complaint case No.1171 of 2018, 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 her to undergo simple imprisonment for a period of one month and pay compensation to the tune of Rs.60,000/- to the complainant ***(in short 'complainant')*** .

2. 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 her lawful liability issued cheque amounting to Rs.50,000/- in

favour of the complainant, but fact remains that aforesaid cheque on its presentation, was dishonoured with remarks "Account closed". 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.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 13.05.2024, held the accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced her 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 Sessions Judge, Shimla, District Shimla, HP, which came to be dismissed vide judgment dated 09.09.2024 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 for her acquittal after setting aside the judgments of conviction recorded by the courts below.

5. 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.

6. 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.

7. While fairly admitting factum of compromise arrived *inter se* parties, Ms. Heena Chauhan, learned counsel for the complainant, states that complainant has no objection in compounding the offence and acquitting the accused from the charges framed against him under Section 138 of the Act.

8. 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.

9. 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 09.09.2024 and 13.05.2024, 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. The petition is disposed of alongwith pending applications, if any.

10. Amount, if any, deposited by the accused with the learned trial Court is ordered to be released in favour of complainant by remitting the same in her bank account, detail whereof, shall be furnished within a period of one week.

11. 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 six weeks, failing which, she shall render herself liable for penal consequences as well as contempt of court.

(**Sandeep Sharma)**
Judge

March 31, 2026
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