

2026 PHHC 069655



CRR-213-2019

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

277

CRR-213-2019 (O & M)

Date of decision: 05.05.2026

ISHU ARORA

....Petitioner

Versus

DHARAM PAL

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Parth Aneja, Advocate,
for the petitioner.

Mr. Atul Sharma, Advocate,
for the LR's of the respondent.

AMAN CHAUDHARY, J. (ORAL)

1. The challenge in the present criminal revision is to the judgment dated 08.01.2019 passed by learned Sessions Judge, Yamuna Nagar, dismissing the appeal preferred against the judgment of conviction and order of sentence dated 06/07.03.2014 passed by learned learned Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhari, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for two years under Section 138 of the Negotiable Instrument Act, 1881 (for short, 'the Act') and to pay compensation.

2. The facts relevant as narrated in the complaint filed under Section 138 of the NI Act are that the in discharge of his liability towards the respondent-complainant, the petitioner-accused issued a cheque bearing No.564150 dated 25.06.2008 in the sum of Rs.3,50,000/-.

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However, on presentation thereof, the same was dishonoured and returned with the remarks “Effects not clearer, present again”. Despite issuance of legal notice, the petitioner failed to make the payment within the stipulated period. The proceedings against him were initiated under Section 138 of the NI Act, pursuant to which, he appeared and was released on bail. On finding *prima facie* case under Section 138 of the NI Act, notice of accusation was served upon him, to which he pleaded not guilty and claimed trial.

3. In order to prove its case, complainant appeared as CW 3 besides examining Baljit Singh as CW 1 and Sushil Kumar as CW 2 and also led documentary evidence. On closure of its evidence, statement of accused-petitioner under Section 313 Cr.P.C. was recorded, he denied all the allegations raised against him and pleaded innocence. In his defence, he examined Ashish Bansal as DW 1.

4. After scrutinizing the evidence led by the parties, the trial Court came to the conclusion that the complainant has successfully proved his case against the petitioner-accused, and convicted and sentenced him to undergo rigorous imprisonment for a period of 1 year and pay compensation to the tune of Rs.4 lakh to the complainant. Aggrieved convict-petitioner filed appeal, which was dismissed by learned Sessions Judge, Yamuna Nagar, vide impugned judgment dated 08.01.2019.

5. Hence, the present revision petition.

6. Learned counsel submits that the entire amount has been paid

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in terms of compromise arrived at, a fact learned counsel for the LR's of the respondent affirms. Thus, he prays for compounding the offence, however, fee with regard to the same may be waived off, in view of his poor financial condition. He has with great difficulty, managed to collect the money and settled the dispute as he wanted to put an end to the same, 12 years having gone by.

7. Learned counsel for the LR's of the respondent submits that there is no objection, if the prayer made by the petitioner is accepted.

8. It is apposite to refer to the judgment of Hon'ble The Supreme Court in **B.V.Seshaiah vs. The State of Telangana and another** 2023 Live Law (SC) 75, wherein it was held thus:

“10. In the case of M/S Meters and Instruments Private Limited & Anr. Vs Kanchan Mehta¹, this court held that the nature of offence under section 138 of the N.I Act is primarily related to a civil wrong and has been specifically made a compoundable offence. The relevant paragraph of the judgment has been extracted herein:

“This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions' cheques were issued merely as a device to defraud the creditors. Dishonor of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable.”

11. This is a very clear case of the parties entering into an agreement and compounding the offence to save themselves from the process of litigation. When such a step has been taken by the parties, and the law very clearly allows them to do the same, the High Court

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then cannot override such compounding and impose its will.”

9. Hon'ble The Supreme Court in the case of **K.Subramanian vs. R.Rajathi** (2010) 15 SCC 352, has held as under:-

“6. Having regard to the salutary provisions of Section 147 of Negotiable Instruments Act read with Section 320 of the Code of Criminal Procedure, this Court is of the opinion that in view of the compromise arrived at between the parties, the petitioner should be permitted to compound the offence committed by him under Section 138 of the Code.

7. xx xx xx

8. The CRL.M.P. No.12804 of 2009 in which the prayer is made by petitioner to permit him to produce affidavits sworn by him on December 1, 2008 as well as affidavit sworn by P. Kaliappan power of attorney holder of R. Rajathi on December 1, 2008, as additional documents is allowed. CRL. M.P. No.12803 of 2009 in which the petitioner has prayed to permit him to compound the offence and acquit him by setting aside the conviction recorded in Criminal case No. 726/2003 under Section 138 of the Negotiable Instruments Act by Learned Judicial Magistrate, Karur is allowed. The petitioner is permitted to compound the offence. The Order of conviction and sentence recorded by all the Courts are hereby set aside and petitioner is acquitted of the charge leveled against him.”

10. The compounding of the offence at later stages of litigation in cases under Section 138 of NI Act has also been held to be permissible by Hon'ble The Supreme Court in a case of **K.M. Ibrahim vs. K.P. Mohammed & Anr.**, 2009 (14) SCALE 262, wherein it was held as under:-

"11. As far as the non-obstante clause included in Section 147 of the 1881 Act is concerned, the 1881 Act being a special statute, the provisions of Section 147 will have an overriding effect over the provisions of the Code relating to compounding of offences.

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12. It is true that the application under Section 147 of the Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the Appellate Forum. However, Section 147 of the aforesaid Act does not bar the parties from compounding an offence under Section 138 even at the appellate stage of the proceedings. Accordingly, we find no reason to reject the application under Section 147 of the aforesaid Act even in a proceeding under Article 136 of the Constitution."

11. Reiterating the aforesaid Hon'ble The Supreme Court in the case of **Damodar S.Prabhu vs. Sayed Babalal H.** 2010(5) SCC 663 has held that in case of dishonour of cheque, accused convicted, there is no stage prescribed for compounding of offence under Section 147 of the Act and it was observed that "It is true that the application under Section 147 of the Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the Appellate Forum. However, Section 147 of the aforesaid Act does not bar the parties from compounding an offence under Section 138 even at the appellate stage of the proceedings." It was further observed that, "Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance."

12. In the peculiarity of facts and circumstances of the case and in light of the judgment in **Damodar S.Prabhu (supra)**, the petitioner is permitted to compound the offence. However, this Court is not inclined to accept the prayer for waiving off the compounding fee, but considering

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the mitigating circumstances of the petitioner brought out by his learned counsel, as noticed above, the same is reduced in view of the afore-referred judgment and he is ordered to deposit an amount of Rs.10,000/- as costs, with the Haryana State Legal Services Authority on or before 20.05.2026. The judgment of conviction/order of sentence recorded by the trial Court and affirmed by the appellate Court are hereby set aside and the petitioner is acquitted of the charges framed against him.

13. The revision petition stands disposed of accordingly.

14. Compliance report be forwarded by the Haryana State Legal Services Authority within a week after deposit of the aforesaid amount.

05.05.2026

ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No