



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17647-2024
Reserved on:-15.05.2026
Pronounced on:-18.05.2026
Uploaded on:- _____

Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment

USHA DEVI ...Petitioner

Versus

VIJAY GARG Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Keshv Pratap Singh, Advocate
Mr. Himanshu Sharma, Advocate
Mr. Sushil K. Bhardwaj, Advocate and
Mr. C.S. Pasricha, Advocate
for the petitioner.

Ms. Mehak Sawhney, Advocate
for the respondent.

MANDEEP PANNU, J.

1. This is a petition under Section 482 Cr.P.C. for quashing of order dated 08.01.2024 (Annexure P-3) passed by the learned Judicial Magistrate First Class, Gurugram in complaint case No. NACT/7403/2018, whereby the application moved by the petitioner for compounding of the offence under Section 138 of the Negotiable Instruments Act on the basis of settlement was dismissed. A further prayer has also been made for staying the proceedings in the aforesaid complaint case during the pendency of the present petition.



2. In a complaint filed under Section 138 of the Negotiable Instruments Act by respondent/complainant Vijay Garg against the petitioner/accused Usha Devi, an application under Section 147 of the Negotiable Instruments Act was moved on behalf of the petitioner seeking compounding of the offence on the basis of settlement arrived at between the parties. In the said application, it was averred that the parties had already settled the matter on 20.05.2019 and the petitioner was making payment of the settled amount as per the agreed schedule. It was further stated that due to the outbreak of COVID-19 pandemic, the financial condition of the petitioner was adversely affected and the payment schedule could not be adhered to. The petitioner further averred that she was a senior citizen and not keeping good health and was ready to pay the settled amount along with interest on the balance amount. It was further stated that in order to show bona fides, the petitioner had already submitted a demand draft of Rs.10,00,000/- and four cheques towards the balance amount along with an additional cheque towards interest amount, and it was prayed that the offence be compounded under Section 147 of the Negotiable Instruments Act.

3. Respondent/complainant Vijay Garg filed reply to the aforesaid application and opposed the prayer for compounding. In the reply, it was averred that the application had been filed at the fag end of the trial only to delay the proceedings and that the petitioner had throughout adopted dilatory tactics. It was further stated that though a payment schedule had earlier been submitted before the Court, the petitioner had failed to honour the terms thereof and committed breach of the agreed settlement. The respondent



alleged that despite having received substantial amounts in her bank accounts and possessing sufficient financial capacity, the petitioner intentionally avoided making payment of the agreed amount. It was further averred that several opportunities had already been availed by the petitioner during trial, including proceedings arising from applications and revision petitions filed by her, solely to prolong the matter. The respondent further contended that no concluded settlement deed had in fact been executed between the parties and that the application under Section 147 of the Negotiable Instruments Act had been moved merely to mislead the Court and avoid the consequences of conviction. It was accordingly prayed that the application for compounding be dismissed with costs. Learned Judicial Magistrate First Class, Gurugram, vide impugned order dated 08.01.2024, dismissed the application filed by the petitioner/accused under Section 147 of the Negotiable Instruments Act for compounding of the offence.

4. The learned trial Court, after hearing arguments from both sides, observed that though the petitioner had sought compounding on the basis of an alleged settlement arrived at in the year 2019 and had expressed willingness to pay the agreed amount along with interest on the remaining balance, the respondent/complainant had specifically opposed the prayer for settlement on the ground that he had already suffered prolonged harassment for several years and was not willing to compound the matter. The learned Magistrate further observed that simultaneously with the filing of the application for compounding, the petitioner had also moved an application for summoning defence witnesses and had examined one defence witness, which reflected that the application appeared to have been filed merely to



delay the proceedings. The learned trial Court further held that even otherwise, the willingness expressed by the petitioner to pay the settlement amount almost five years after the alleged settlement of the year 2019 could not be accepted in the absence of consent and willingness of the complainant to compound the matter. Accordingly, finding no merit in the application, the same was dismissed by the learned trial Court.

5. Learned counsel for the petitioner contends that the impugned order dated 08.01.2024 passed by the learned JMIC, Gurugram is wholly illegal, arbitrary and contrary to the settled principles governing proceedings under Section 138 of the Negotiable Instruments Act. It is submitted that the offence under Section 138 of the Negotiable Instruments Act is primarily compensatory and quasi-criminal in nature and the object of the provision is to ensure recovery of the amount due rather than to punish the accused. Learned counsel submits that the petitioner had throughout shown bona fide intention to settle the dispute and had already paid substantial amounts to the respondent/complainant, including payment of Rs.17,00,000/- after filing of the complaint, apart from other amounts paid earlier and during the year 2019. It is further contended that the petitioner had moved an application under Section 147 of the Negotiable Instruments Act expressing readiness and willingness to pay the remaining settled amount along with interest, however, the learned trial Court wrongly dismissed the said application merely on conjectures by observing that the same had been filed to delay the proceedings. It is further argued that the learned trial Court failed to appreciate that the petitioner had acted in furtherance of the settlement arrived at between the parties in the year 2019 and had also furnished drafts



and cheques towards the balance payment, thereby clearly establishing her bona fides. Learned counsel submits that the respondent/complainant intentionally avoided settlement with a view to prolong the litigation and claim enhanced interest and other benefits. It is contended that the impugned order is non-speaking, mechanical and passed without proper application of judicial mind, as no cogent reasons have been assigned for declining the prayer for compounding. Learned counsel for the petitioner further submits that it is well settled that offences under Section 138 of the Negotiable Instruments Act can be compounded even at appellate or revisional stages and, therefore, at the stage when the trial was still pending, there was no justification for refusing the request for compounding. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Sanjibj Tari versus Kishore S. Borcar and another 2025(4) RCR (criminal) 420*, wherein guidelines have been issued emphasizing early resolution and compounding of cheque dishonour cases keeping in view the quasi-criminal nature of such proceedings. It is argued that the Courts are expected to encourage settlement in such matters and technical objections ought not to defeat genuine efforts for amicable resolution. It is also contended that consent of the complainant cannot be treated as an absolute embargo in every situation and once the accused demonstrates readiness to satisfy the liability in terms of the settlement, the Court ought to exercise jurisdiction in furtherance of the object of the statute. On the aforesaid premises, prayer has been made for setting aside the impugned order dated 08.01.2024 and for allowing the application filed by the petitioner under Section 147 of the Negotiable Instruments Act for compounding of the offence.



6. Per contra, learned counsel for the respondent/complainant vehemently opposes the present petition and submits that the petitioner has concealed material facts and has approached this Court without clean hands. It is contended that from the very inception, the petitioner has adopted deliberate delaying tactics only to frustrate the proceedings arising out of the complaint under Section 138 of the Negotiable Instruments Act. Learned counsel submits that despite repeated opportunities granted by the learned trial Court, the petitioner intentionally avoided appearance and even sought exemption from personal appearance on medical grounds, compelling the trial Court to observe that the medical certificate appeared to have been procured merely to seek exemption from appearance. Consequently, non-bailable warrants and thereafter proclamation proceedings had to be initiated against the petitioner. It is further submitted that during the course of trial, an official from Axis Bank appeared as CW-1 and produced statement of account pertaining to the petitioner showing that crores of rupees had been credited into her accounts during the relevant period, thereby demonstrating that the petitioner was financially capable of discharging her liability. Learned counsel contends that despite having sufficient financial means, the petitioner intentionally failed to honour the commitments made before the Court and the complainant. Learned counsel for the respondent further submits that during pendency of the complaint, the petitioner herself proposed a repayment schedule dated 20.05.2019 whereby she undertook to repay the amount of Rs.50 lakhs along with interest in instalments. It is submitted that the respondent/complainant, being a senior citizen and retired banker, accepted the said repayment schedule under compelling



circumstances and in good faith in order to avoid prolonged litigation. However, the petitioner violated the terms of the repayment schedule and repeatedly defaulted in making payments, compelling the respondent to move appropriate applications before the learned trial Court. Even thereafter, only negligible payments were made and the petitioner again stopped making payments altogether. It is further argued that instead of cooperating with the proceedings, the petitioner deliberately absented herself from the Court proceedings resulting in issuance of non-bailable warrants as well as proclamation proceedings. Learned counsel submits that after the case had substantially progressed and the complainant evidence had already concluded, the petitioner moved an application seeking discharge under Section 219 Cr.P.C., which was dismissed by the learned trial Court on 03.11.2022 and even the revision petition preferred against the said order was dismissed by the learned Additional Sessions Judge, Gurugram vide order dated 16.10.2023. Learned counsel contends that thereafter, when the matter had reached the stage of defence evidence and final arguments, the petitioner moved the application under Section 147 of the Negotiable Instruments Act for compounding of the offence solely with an intention to further delay the adjudication of the complaint. It is argued that the alleged settlement deed relied upon by the petitioner was never validly executed and was projected before the Court only to mislead the proceedings. It is further submitted that immediately after dismissal of the application for compounding vide impugned order dated 08.01.2024, the petitioner again moved another application under Section 247 Cr.P.C. seeking permission to lead defence evidence, thereby clearly exposing the mala fide intent behind



the so-called offer for settlement. Learned counsel for the respondent further submits that despite availing as many as 14 effective opportunities to lead defence evidence, the petitioner failed to produce any evidence and ultimately the defence evidence was closed by the learned trial Court vide order dated 11.03.2024. Even the said order has separately been challenged by the petitioner in revision proceedings, which fact has deliberately not been disclosed in the present petition. It is thus argued that the petitioner has consistently abused the process of law and has been attempting to prolong the matter for several years.

7. On the strength of the aforesaid submissions, learned counsel contends that the impugned order dated 08.01.2024 passed by the learned JMIC, Gurugram is perfectly legal, reasoned and justified in the facts and circumstances of the case and does not warrant any interference by this Court in exercise of inherent jurisdiction under Section 482 Cr.P.C. Learned counsel for the respondent has also placed reliance upon the judgment of the Hon'ble Supreme Court in *A.S. Pharma Pvt. Ltd. versus Nayati Medical Pvt. Ltd. and others, 2025(1) RCR (Criminal) 714*, to contend that compounding of an offence under Section 138 of the Negotiable Instruments Act under Section 147 of the N.I. Act cannot ordinarily be permitted without the consent of the complainant. It has been argued that though the Hon'ble Supreme Court in exercise of powers under Article 142 of the Constitution may, in peculiar facts, compound the offence even in absence of consent of the complainant, the High Court while exercising jurisdiction under Section 482 Cr.P.C. does not possess such wide powers. Learned counsel submits that in the present case, the respondent/complainant has categorically



opposed the prayer for compounding and, therefore, the learned trial Court rightly declined the application filed by the petitioner. It is thus contended that the petitioner cannot seek compounding of the offence as a matter of right merely on the basis of an alleged willingness to pay the amount after protracting the proceedings for several years.

8. I have heard learned counsel for the parties and have gone through the paper-book with their able assistance. The primary grievance raised by the petitioner is against the order dated 08.01.2024 passed by the learned JMIC, Gurugram whereby the application filed under Section 147 of the Negotiable Instruments Act for compounding of the offence was dismissed. The contention of the petitioner is that since the offence under Section 138 of the Negotiable Instruments Act is primarily compensatory in nature and the petitioner was willing to make payment of the cheque amount, the learned trial Court ought to have permitted compounding of the offence. However, this Court does not find any merit in the aforesaid submissions. A perusal of the record reveals that the conduct of the petitioner throughout the proceedings has not been bona fide. The complaint under Section 138 of the Negotiable Instruments Act has remained pending since the year 2018. During the pendency of the proceedings, the petitioner herself submitted a repayment schedule dated 20.05.2019 undertaking to liquidate the liability in instalments. The respondent/complainant, who is stated to be a senior citizen and retired banker, accepted the said proposal in good faith with the legitimate expectation that the matter would attain quietus. However, admittedly, the petitioner failed to adhere to the said repayment schedule and defaulted in making payments in terms thereof. Even



thereafter, the petitioner continued seeking adjournments and repeatedly adopted dilatory tactics, compelling the learned trial Court to issue non-bailable warrants and even initiate proclamation proceedings.

9. The record further shows that after the complainant evidence had already concluded and the matter had reached the stage of defence evidence and final arguments, the petitioner moved the application seeking compounding of the offence. Significantly, immediately after dismissal of the said application, another application seeking permission to lead defence evidence was moved by the petitioner. Such conduct lends credence to the observations recorded by the learned trial Court that the application for compounding was not moved with genuine intent to settle the dispute, but rather to prolong the proceedings and delay the culmination of trial. Even despite availing numerous effective opportunities, the petitioner failed to conclude defence evidence, resulting in closure thereof by the learned trial Court. The contention raised on behalf of the petitioner that the learned trial Court was bound to permit compounding merely because the petitioner expressed willingness to pay the amount also deserves rejection. No doubt, the offence under Section 138 of the Negotiable Instruments Act is compensatory in nature and the law encourages settlement of such disputes. However, the willingness to pay, at a highly belated stage after years of protracted litigation and repeated defaults, cannot by itself confer an indefeasible right upon the accused to seek compounding, particularly when the complainant is not agreeable to the same and the conduct of the accused is found to be lacking in bona fides.



10. The judgment relied upon by learned counsel for the petitioner is distinguishable on facts. *In Sanjabji Tari' case (supra)*, relied upon by the petitioner, the Hon'ble Supreme Court issued certain guidelines to streamline proceedings under Section 138 of the Negotiable Instruments Act and observed that Courts may encourage settlement and compounding in appropriate cases. However, the said judgment cannot be read to mean that irrespective of the conduct of the accused and irrespective of the surrounding circumstances, compounding must necessarily be permitted in every case. The observations made therein were rendered in the peculiar facts of that case and with an intent to facilitate early resolution of cheque dishonour disputes. In the present case, the petitioner had already been granted ample opportunities after having herself proposed a repayment schedule, yet failed to honour the commitments made before the Court and continued to delay the proceedings for years together.

11. Rather, the judgment relied upon by the respondent in *A.S. Pharma's case (supra)* squarely applies to the facts of the present case. The Hon'ble Supreme Court therein clearly held that compounding under Section 147 of the Negotiable Instruments Act ordinarily requires consent of the complainant and that the powers exercised by the Hon'ble Supreme Court under Article 142 of the Constitution cannot be equated with the jurisdiction exercised by the High Court under Section 482 Cr.P.C. In the present case, the respondent/complainant has specifically opposed the prayer for compounding and has consistently asserted that the petitioner has abused the process of law and failed to honour the earlier settlement terms. Therefore,



this Court finds no illegality in the approach adopted by the learned trial Court while declining the request for compounding.

12. This Court is also of the considered opinion that the impugned order dated 08.01.2024 cannot be termed as perverse, arbitrary or suffering from any patent illegality warranting interference under Section 482 Cr.P.C. The learned trial Court has duly considered the stage of the proceedings, the earlier conduct of the petitioner, the repeated defaults in repayment despite settlement opportunities and the objections raised by the complainant before dismissing the application. The inherent jurisdiction of this Court is to be exercised sparingly and only where gross miscarriage of justice is demonstrated. No such circumstance is made out in the present case.

13. Consequently, finding no merit in the present petition, the same is hereby dismissed.

14. Pending applications, if any, shall also stand disposed of.

18.05.2026
Anu

(MANDEEP PANNU)
JUDGE

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