IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR-1834-2022 (O&M)
Date of decision: 11.02.2026

Ashwani @ Ashwani Sharma ...Petitioner(s)

VERSUS

Ashok Kumar and another ...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Pankaj Bali, Advocate for the petitioner(s).

Mr. Rajinder K. Singla, Advocate for
Mr. Ankit Aggarwal, Advocate
for respondent No.1-complainant.

Mr. Paras Talwar, Sr. DAG Haryana.

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VINOD S. BHARDWAJ, J. (Oral)

1. The instant revision petition has been filed against the impugned judgment and order of sentence dated 20.03.2018/21.03.2018 passed by the Judicial Magistrate 1st Class, Karnal vide which the petitioner had been convicted and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a compensation equivalent to the cheque amount of Rs.1,00,000/- to the complainant for the commission of offence under Section 138 of the Negotiable Instruments Act, 1881 and the impugned order dated 02.04.2022 passed by the Additional Sessions Judge, Karnal vide which the appeal preferred by the petitioner has been dismissed for want of prosecution.

2. The petitioner-accused and respondent-complainant had a friendly relationship, and the petitioner-accused borrowed a sum of Rs.1,00,000/- from the respondent-complainant to fulfil his domestic and personal needs with an assurance to repay the same in the 1st week of January 2016. In discharge of his lawful liability, the petitioner issued cheque no. 242303 dated 29.01.2016 amounting to Rs.1,00,000/- drawn at Punjab National Bank, Phoosgarh Road, Karnal from his account bearing No.7438000100019537 in favour of the respondent-complainant. However, the said cheque was dishonoured on presentation vide memo dated 01.02.2016 and returned with remarks 'opening balance insufficient/funds insufficient'.

3. The complainant then got served a legal Notice dated 17.02.2016, calling upon the petitioner-accused to make the payment within 15 days of the receipt of the legal notice. However, the same was not done and a complaint under Section 138 of the Negotiable Instruments Act came to be filed before the Judicial Magistrate 1st Class, Karnal. On the basis of the preliminary evidence led by the complainant-respondent on 14.03.2016 and on finding sufficient grounds, the petitioner-accused was summoned to face trial for the commission of an offence under Section 138 of the Negotiable Instruments Act, 1881. The petitioner-accused was served with a notice of accusation on 01.05.2017, to which he pleaded not guilty and claimed trial. The complainant stepped into the witness box as CW1, reiterated the allegations made in the complaint and closed his preliminary evidence. The complainant also proved the relevant documents.

4. Vide judgment and order of sentence dated 20.03.2018/21.03.2018, the petitioner-accused was convicted and sentenced to undergo rigorous imprisonment for a period of 06 months and to pay a compensation equivalent to the cheque amount of Rs.1,00,000/- to the complainant for the commission of an offence under Section 138 of the Negotiable Instruments Act, 1881. The petitioner filed an appeal against the above-said judgment of conviction, and, vide order dated 02.04.2022, the Additional Sessions Judge, Karnal, dismissed the appeal. The present petition has thus been filed.

5. Learned counsel for the petitioner contends that the matter has already been settled between the parties and the petitioner has cleared all the dues, even 15% of the cheque amount has also been paid as per the judgment passed in ***Damodar S. Prabhu v. Sayed Babalal H.,*** reported as ***(2010) 5 SCC 663***. Therefore, he prays that the case in hand be permitted to be compounded as per Section 147 of the Negotiable Instruments Act. The relevant provision of the Act reads thus:-

> ***"147 Offences to be compoundable.***
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> *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."*

6. Learned counsel appearing on behalf of respondent No. 1-complainant has acknowledged that the entire amount, as well as 15% of the cheque amount, has also been paid as per the judgment passed in ***Damodar S. Prabhu*** *(supra)* and that he has no objection to the offence being compounded under Section 147 of the Negotiable Instruments Act, 1881.

7. The issue regarding compounding under the Negotiable Instruments Act at the stage of appeal as well as revision has come before this court as well as before the Hon'ble Supreme Court and they have upheld that the powers under Section 147 of the Negotiable Instruments Act can be invoked at any stage of the proceedings i.e. at the stage of trial, appeal or at the revisional jurisdiction and that the courts should be liberal in exercising such powers.

8. It would be apposite to refer to the order passed by the Hon'ble Supreme Court in the matter of '***Gian Chand Garg vs Harpal Singh and Anr***' reported as ***2025 SCC OnLine SC 2317***. The relevant part of the order is extracted hereunder:

> ***6.*** *This court in* ***Meters and Instruments (P) Ltd. v. Kanchan Mehta (2018) 1 SCC 560*** *held that the nature of offence under section 138 of the NI Act is a mainly a civil wrong and has been made specifically compoundable by section 147 of the NI Act which was inserted by the 2002 amendment to the said Act. The relevant observations have been extracted for reference:*
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>> *"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."*

7. *It is also apposite to reiterate the observations in* ***P. Mohanraj v. Shah Bros. Ispat (P) Ltd. (2021) 6 SCC 258*** *wherein this court referred the offence under section 138 NI Act as a "Civil Sheep" in "Criminal Wolfs Clothing" which meant issues agitated by the parties under the said provision are of private nature which are brought within the sweep of criminality jurisdiction in order to strengthen the credibility of the negotiable instruments.*

8. *Further in* ***Gimpex (P) Ltd. v. Manoj Goel (2022) 11 SCC 705*** *this court took into consideration the effect of settlement arrived between the parties and observed that:*

> *"38. When a complainant party enters into a compromise agreement with the accused, it may be for a multitude of reasons- Higher Compensation, faster recovery of money, uncertainty of trial and strength of complaint, among others. A complainant enters into a settlement with open eyes and undertakes the risk of the accused failing to honour the cheques issued pursuant to the settlement, based on certain benefits that the settlement agreement postulates. Once parties voluntarily entered*

> *into such an agreement and agree to abide by the consequence of non-compliance of the settlement agreement, they cannot be allowed to reverse the effects of the agreement by pursuing both the original complaint and the subsequent complaint arising from such non-compliance. The Settlement agreement subsumes the original complaint……*"

9. *In* ***B.V. Seshaiah v. State of Telangana (2023) 18 SCC 512*** *this court was of the view that when parties enter into an agreement and compound the offence, they do so to save themselves from the process of litigation and when such a step is taken by the parties, the law very well allows them to do so. Hence, the courts cannot override such compounding and impose its will.*

10. *Therefore, it is very clear that although dishonour of cheque entails criminal consequence, the legislature by virtue of section 147 of the NI Act has made it compoundable notwithstanding the provisions of the Code of Criminal Procedure, 1973 and the same can be compounded at any stage of the proceedings especially when the parties have themselves arrived at a voluntary compromise.*

9. In view of the parties having settled the matter and the amount having been deposited by the petitioner with respondent No.1 and in light of the consent of the parties, I deem it appropriate to invoke the power vested by virtue of Section 147 of the Negotiable Instruments Act, 1881 and allow

the compounding of the offence under Section 138 of the Negotiable Instruments Act and consequently set aside the judgment/order of both the Courts below i.e. impugned judgment and order dated 20.03.2018/21.03.2018 passed by Judicial Magistrate 1st Class, Karnal and impugned order dated 02.04.2022 passed by Additional Sessions Judge, Karnal. The petitioner, if confined in jail and is not required in any other case, shall be released forthwith, in accordance with law.

10. In view of the above, the present petition as well as CRM-32849-2022 seeking compounding of offence, are accordingly ***allowed*** in the terms, as aforesaid.

11. All pending misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

11.02.2026
Mangal Singh

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