

Before:- Anita Chaudhry, J.

CRR No. 1649 of 2014 (O&M). D/d. 27.10.2014.

Gurbaljit Singh alias Balla - Petitioner

Versus

State of Punjab - Respondent

For the Appellant :- Ashish Aggarwal, Advocate.

For the Respondent :- P.S. Madahar, AAG, Punjab.

For the Respondent No. 2. :- B.S. Mann, Advocate.

Negotiable Instruments Act, 1881 Section [138](#) Dishonour of cheque - Compromise - Factum of receipt of entire payment admitted by complainant - Matter has been finally settled, the liability is discharged - Offence under Section [138](#) compounded - Revision allowed - Petitioner acquitted on the basis of compromise.

[Para]

Cases Referred :

[Damodar S. Prabhu v. Sayed Babalal, JT 2010 \(4\) SC 457 : 2010 \(2\) RCR \(Cri.\) 851.](#)

ORDER

Anita Chaudhry, J. - The present revision petition filed by the petitioner against the order dated 21.04.2014, passed by the learned Addl. Sessions Judge, Amritsar, vide which, impugned judgment of conviction and order of sentence dated 07.11.2012 convicting the petitioner for offence under Section [138](#) of the Negotiable Instruments Act and sentencing him to undergo R.I. for a period of two years and to pay a fine of ₹ 1000/-, passed by learned Judicial Magistrate Ist Class, Amritsar has been upheld.

2. Learned counsel for the petitioner contends that parties have compromised the matter and in this regard affidavit (Annexure CRR No.1649 of 2014 (O&M) P-2) of complainant Gurbal Singh Chahal has been filed and report of the Chief Judicial Magistrate, Amritsar with respect to the compromise has also been received. The entire amount stands repaid to the complainant; that the petitioner has already deposited an amount of ₹ 27,750/- (15% of the cheque amount) vide receipt No.7 dated 27.10.2014 with the Punjab & Haryana High Court Legal Services Authority, at Chandigarh. Copy of the receipt has been placed on record.

3. On the other hand, the learned counsel appearing for the respondent No.2 admits the factum of receipt of the entire payment. The counsel for respondent No.2 has no objection if the impugned judgments of conviction and sentence is set aside.

4. I have heard learned counsel for the parties and perused the record.

5. In **Damodar S. Prabhu v. Sayed Babalal, JT 2010 (4) SC 457**, the Full Bench of Hon'ble Supreme Court has issued the following guidelines in cheque bouncing cases:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for CRR No.1649 of 2014 (O&M) compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

6. In view of the judgment of the Apex Court in **Damodar S. Prabhu v. Sayed Babalal H., 2010 (2) RCR (Crl.) 851**, the matter can be compounded at the stage of pendency of the proceedings before the High Court.

7. Considering the above circumstances, the offence under Section [138](#) of the Negotiable Instruments Act is compounded.

8. Keeping in view the fact that the matter has been finally settled, the liability is discharged; the present petition is allowed; judgment of conviction and order of sentence dated 07.11.2012 passed in complaint case No.335 of 2010, by the Judicial Magistrate Ist Class, Amritsar; and judgment dated 21.04.2014, passed in Criminal Appeal No.78 of 2012, by the Additional Sessions Judge, Amritsar, confirming the conviction and sentence of the accused petitioner, are set aside. The present revision is allowed and the petitioner is acquitted on the basis of compromise.

9. As the main revision is being disposed of, the pending criminal miscellaneous applications are also disposed of.