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IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAI PUR BENCH, JAI PUR

O R D E R

S. B. CRIMINAL REVISION PETITION NO. 1246/2005

*ABDUL HAMID LUHAR Vs. STATE OF RAJASTHAN & ANR.*

DATE: 30. 04. 2007.

HON'BLE MR. K. S. RATHORE, J.

Mr. Anil Upman for the petitioner.

Mr. B. K. Sharma, Public Prosecutor for the State.

Mr. Shamsuddin Ansari for the complainant-respondent.  
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The present criminal revision petition under Section 397 r/w Section 401 Cr. P. C. is directed against the judgment dated 06. 09. 2005 passed by the Additional Sessions Judge No. 1, Jai pur City, Jai pur in Criminal Appeal No. 200/2005, whereby the Appellate Court while dismissing the appeal filed by the accused-petitioner upheld the judgment dated 09. 02. 2004 passed by the Additional Civil Judge (Sr. Division) & Additional Chief Judicial Magistrate No. 11, Jai pur City, Jai pur in Criminal Case No. 103/2003, by which the accused-petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and a fine of Rs. 65, 000/-.

Both the parties have filed a compromise/agreement duly signed by the respective parties. In the compromise arrived at between the

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parties, dispute is settled between the parties. The original compromise deed is placed on record.

Learned counsel for the accused-petitioner submits that as per the compromise/agreement, amount which was due to the complainant-respondent has been paid, which has not been denied by the learned counsel appearing for the complainant and it has been mentioned in the compromise also.

Further the learned counsel for the accused-petitioner placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **Anil Kumar Hariwal and another Vs. Alka Gupta and another**, reported in 2004 AIR SC 3978, wherein the Hon'ble Supreme Court has held that Sections 138, 147 of the Negotiable Instruments Act- Offence of cheque dishonour- Compoundable in view of Section 147- Conviction and sentence for offence under Section 138 set-aside as the dispute is settled and amount due to complainant has been paid.

Having heard rival submissions of the respective parties and after going through the impugned judgments dated 06.09.2005 and 09.02.2004 passed by the Appellate Court and the trial Court respectively and upon careful perusal of the judgment rendered by the Hon'ble Supreme Court in the aforementioned case of **Anil Kumar Hariwal and another (supra)** and in view of

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the compromise arrived at between the parties and as the amount due has already been paid to the complainant, the conviction of the accused-petitioner for the offence under Section 138 of the Negotiable Instruments and sentence of simple imprisonment for six months are hereby quashed and set-aside.

Since the operation of the impugned judgments dated 06.09.2005 and 09.02.2004 passed by the Appellate Court and the trial Court respectively has been stayed by the co-ordinate Bench of this Court vide ex parte interim order dated 20.12.2005 and the judgments are not executed, the accused-petitioner is not in jail and he is not required to surrender as the sentence itself has been quashed and set-aside.

The revision petition as indicated herein above, stands disposed of.

(K. S. RATHORE), J.

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