

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

1. CRR No. 3795 of 2018 (O&M)

Harbhajan Singh

...Petitioner

Versus

Jarnail Singh & another

...Respondents

2. CRR No. 3787 of 2018 (O&M)

Harbhajan Singh

...Petitioner

Versus

Jarnail Singh & another

...Respondents

Date of decision: 31.01.2020

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vikas Singh, Advocate
for the petitioner in both the petitions.

Mr. K. S. Banyana, Advocate
for respondent No. 1/complainant in both the petitions.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions as they are similar in nature and involve the same parties.

Prayer in the first petition is for setting aside the judgment of conviction dated 13.02.2017 and order of sentence of the even date, passed by the trial Court, vide which, the petitioner was held guilty for commission of offence punishable under Section 138 of the Negotiable Instruments Act,

1881 (*for short 'N. I. Act'*) in **Complaint Case No. 01 dated 02.01.2016** and was sentenced to undergo rigorous imprisonment for a period of two years and to pay compensation of Rs. 8,00,000/- to the complainant; as well as the judgment dated 12.10.2018, vide which, the appeal filed by the petitioner was dismissed by the lower appellate Court.

Prayer in the second petition is for setting aside the judgment of conviction dated 13.02.2017 and order of sentence of the even date, passed by the trial Court, vide which, the petitioner was held guilty for commission of offence punishable under Section 138 of the N.I. Act in **Complaint Case No. 16 dated 11.01.2016** and was sentenced to undergo rigorous imprisonment for a period of two years and to pay compensation of Rs. 8,00,000/- to the complainant; as well as the judgment dated 12.10.2018, vide which, the appeal filed by the petitioner was dismissed by the lower appellate Court.

Brief facts of the case are that complainant Jarnail Singh was in a good relation with accused/petitioner Harbhajan Singh, however, the accused/petitioner, on the pretext of selling him a plot, received a huge money and neither delivered the plot to him nor returned the money and on 06.10.2014, accused/petitioner admitted that he had to pay an amount of Rs. 12,90,000/- to the complainant and in discharge of his liability, accused/petitioner issued cheque bearing No. 973799 dated 06.10.2014 for Rs. 6,00,000/- and another cheque bearing No. 973800 dated 06.10.2014 for Rs. 6,90,000/- in favour of the complainant. The complainant presented the said cheques through Syndicate Bank, Branch Sangrur on 25.10.2014 for the withdrawal of the amount which were dishonoured by the bank of accused and the Memo was issued on 25.10.2014 with the remarks "Funds

Insufficient". Subsequently a writing dated 14.11.2014 was prepared thereby giving assurance by accused that he would pay the sum of Rs. 12,90,000/- to the complainant upto 22.11.2014 and it was stipulated that on failure to do so by the accused, he would be liable for the legal action in accordance with law. The legal notice was served upon accused thereafter on 22.11.2014 but despite that accused failed to pay the requisite amount of cheques. Hence, the aforesaid complaints were filed by the complainants under Section 138 of the N.I. Act, in which, the petitioner stood convicted by the trial Court and his appeals were dismissed by the lower appellate Court, as noticed above. Hence, the present revision petitions.

During the pendency of the present petitions, the sentence of the petitioner was suspended, vide order dated 27.02.2019, passed separately in both petitions and thereafter, on noticing the fact that the parties were interested in amicable settlement, the matter was referred to Mediation and Conciliation Centre of this Court.

In pursuance to the aforesaid direction, the parties appeared before the Mediation and Conciliation Centre of this Court and a settlement/agreement dated 09.09.2019 has been arrived at between them. Clause 6 of the said settlement/agreement reads as under:

“6. The following settlement has been arrived at between the Parties hereto:

a) The first party agreed to make a total payment of Rs.12,10,000/- (Rupees Twelve Lacs and Ten Thousand only) to the second party as full and final payment towards the settlement of cheque dispute between them in both the Criminal Revision Petitions, which the second party has agreed and accepted the same. The amount of

Rs.12,10,000/- (Rupees Twelve Lacs and Ten Thousand only) will be paid by the first party to the second party in the following manner:-

- (i) The first party has paid the amount of Rs.4,00,000/- (Rupees Four Lacs only) through Demand Draft No.141644 dated 07.09.2019, issued by Oriental Bank of Commerce, Patiala, in favour of second party-Jarnail Singh today in the Mediation Centre. Photo copy of Demand Draft is attached herewith.
- (ii) An amount of Rs.1,80,000/- (Rupees One Lac and Eighty Thousand only) in cash has been paid by the first party-Harbajan Singh to the second party-Jarnail Singh today in the Mediation Centre.
- (iii) An amount of Rs.30,000/- (Rupees Thirty Thousand only) by Cheque No.010873 dated 09.09.2019 drawn on Oriental Bank of Commerce, Patiala, has been paid by the first party-Harbajan Singh to the second party-Jarnail Singh today in the Mediation Centre. Photo copy of the Cheque is attached herewith.
- (iv) That the demand draft for an amount of Rs.6,00,000/- (Rupees Six Lacs only) is already deposited by the first party-Harbajan Singh with the Registry of this Hon'ble Court. The first party-Harbajan Singh has no objection if the said amount of Rs.6,00,000/- (Rupees Six Lacs only) be released in favour of the second party-Jarnail Singh by the Hon'ble Court.

- b) It has been mutually agreed between the parties that the second party shall have no objection if Criminal Revision Petitions bearing CRR No.3795 of 2018 and CRR No.3787 of 2018 filed by the first party are allowed by the Hon'ble High Court, in view of the present

settlement between the parties.

- c) That now the second party-Jarnail Singh has no grievance with regard to the present Criminal Revision petitions and he wants no action against the first party-Harbajan Singh in present Criminal Revision Petitions.
- d) This compromise has been arrived at between the parties without any pressure, undue influence or misrepresentation and both the parties have agreed to abide by the terms and conditions of the agreement. Both the parties shall be bound with the terms and conditions of this compromise.”

Today, the matter has been taken up and learned counsel for the petitioner has submitted that the petitioner has already paid a sum of Rs. 6,10,000/- to respondent No. 1/complainant Jarnail Singh, as detailed in the aforesaid settlement/agreement.

Learned counsel for respondent No. 1/complainant has acknowledged the aforesaid fact that a sum of Rs. 6,10,000/- has already been paid to complainant, however, submitted that the amount of Rs. 6,00,000/-, which was deposited by the petitioner (Rs. 3,00,000/- in each case) with the Registrar of this Court by way of a demand draft in compliance with the order dated 20.02.2019, may be ordered to be released in favour of respondent No. 1/complainant.

In view of the above, it is submitted by learned counsel for the parties that the present petitions may be allowed and the offence may be compounded in view of the provisions of Section 147 of the N. I. Act.

After hearing both the parties and considering the fact that the parties have amicably settled their dispute and no other litigation is pending between them, the permission is granted to compound the offence under the

provisions of Section 147 of the N.I. Act.

It has been held by Hon'ble Supreme Court in ***2018 (1) R.C.R.***

(Criminal) 971, Sri Ashish Subba vs. Manoj Kumar Agarwal and another

that when the parties have amicably settled their dispute, the conviction and sentence of the accused, under Section 138 of the N.I. Act, can be set aside.

Accordingly, these revision petitions are allowed and judgment of conviction dated 13.02.2017 and order of sentence of the even date as well as the judgment dated 12.10.2018, passed separately by the trial Court and lower appellate Court respectively in both the aforesaid complaints, are hereby set aside. The petitioner is acquitted of the charge framed against him.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement arrived at between them.

The Registrar General of this Court is directed to release the amount of Rs. 6,00,000/-, which was deposited by the petitioner by way of two demand drafts in compliance with the order dated 20.02.2019, in favour of respondent No. 1/complainant Jarnail Singh, within a period of one month from today.

A photocopy of this order be placed on the file of other connected case.

31.01.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No