

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr. Revision No.111/2024.
Date of Decision: 30th April, 2024.**

Indu BalaPetitioner.
Versus

Asha SoniRespondent.

Coram

The Hon'ble Mr. Justice Bipin Chander Negi, Judge.

***Whether approved for reporting?*¹**

For the Petitioner: Mr. Sanjeev K. Suri, Advocate.

For the Respondent: Mr. Y.P. Sood, Advocate.

Bipin Chander Negi, Judge (oral).

The petitioner was convicted by the learned Additional Judicial Magistrate, Court No.1, Una, District Una, on 02.12.2022 for having committed offence punishable under Section 138 of Negotiable Instruments Act (*hereinafter referred to as NI Act*). She was sentenced to undergo simple imprisonment for a period one year and to pay compensation of Rs.5,75,000/- to the complainant. The judgment of conviction and order of sentence were affirmed by the learned Additional Sessions Judge-II, Una, District Una, H.P, vide judgment dated 20.01.2024. Both these judgments and sentence order have been assailed by the petitioner in the instant criminal revision

2. By virtue of application i.e. Cr. MP No.1410 of 2024, the petitioner submits that an amount of Rs.1,15,000/- stands deposited with the learned trial Court vide DD No.164208 dated 23.01.2023 and for the remaining amount the petitioner has got prepared a Demand Draft bearing No.164253 dated 04.04.2024 in favour of the respondent for the balance amount of Rs.4,60,000/-. In order to substantiate the aforesaid submissions, Demand Draft No.164253 dated 24.04.2024 has been appended along with the present application as Annexure A-1. The same has been handed over to the respondent.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Respondent admits receipt of the same. In view of the aforesaid, the respondent intends not to file any reply to the application i.e. Cr.MP No.1410 of 2024, whereby compounding of the offences in question has been sought.

3. Consequently in view of the aforesaid, this Court finds no impediment in accepting the prayer made on behalf of the petitioner for compounding of the offence and the same is allowed. Matter is ordered to be compounded *inter se* parties. Impugned judgments of conviction and order of sentence passed by both the learned Courts below are quashed and set aside. Accused is acquitted of the offence punishable under Section 138 of the Act. The respondent is free to move an appropriate application for releasing of the compensation amount lying deposited before the learned trial Court.

4. In terms of judgment passed by the Hon'ble Apex Court in **Damodar S. Prabhu vs. Sayed Babalal H. (2010) 5 SCC 663**, the petitioner shall pay compounding fee i.e. 15 % of the cheque amount as costs. The same shall be paid to the H.P. State Legal Services Authority, Kasumpati, Shimla, H.P. within two months from today. It is made clear that the setting aside of the conviction and order of sentence in the case at hand is subject to petitioner depositing before H.P. State Legal Services Authority 15 % of the cheque amount as costs.

The present criminal revision stands disposed in the above terms of, so also the pending miscellaneous application(s), if any.

**(Bipin Chander Negi)
Judge**

30th April, 2024
(Gaurav Rawat)