
(2016) 11 SHI CK 0001
In the High Court Of Himachal Pradesh
Case No : Cr. Revision No. 196 of 2016

Dheeraj Kumar

APPELLANT

Vs

Vinod Kumar

RESPONDENT

Date of Decision : 10-11-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2016) LatestHLJ(HP) 1510

Hon'ble Judges : Mr. Vivek Singh Thakur J.

Bench : Single Bench

Advocate : Mr. Dheeraj K. Vashisht, Advocate, for the Respondent; Mr. N.K. Thakur, Senior Advocate with Mr. Ramesh Sharma, Advocate, for the Petitioner

Final Decision : Disposed Off

Judgement

Vivek Singh Thakur, J.(Oral) - Present Revision Petition has been filed assailing judgment passed by learned Sessions Judge Una, District Una, H.P. in Cr. Appeal No. 12/2016 dated 13.6.2016, affirming judgment and order of conviction passed by learned Chief Judicial Magistrate, Una, District Una, H.P., dated 16.2.2016/17.2.2016 in Criminal Case RBT No. 80-II-15/2012, convicting and sentencing the petitioner-accused to undergo simple imprisonment for four months and to pay fine of Rs. 2,10,000/- as compensation.

2. It is jointly represented by learned counsel for the petitioner as well as respondent that matter has been amicably settled outside the Court. Learned counsel for the petitioner as well as respondent submits that they are duly authorised and competent to make statement on behalf of their respective clients and they endorsed the settlement arrived at between the parties in their statements recorded separately and placed on record. According to them, entire amount of compensation has been paid by petitioner Sh. Dheeraj Kumar to complainant Sh. Vinod Kumar Diwadi through his General Power of Attorney Sh. Sanjeev Kumar who is brother-in-law of the complainant and in pursuance to the

amicable settlement, the complainant Sh. Vinod Kumar Diwadi has to withdraw the complaint and as such prayer for permitting to withdraw the complaint and compound the matter has been made.

3. Consequently, respondent/complainant is permitted to withdraw the complaint in present case and matter is compounded and complaint arising out of dishonor of cheque under Section 138 of the Negotiable Instruments Act is permitted to be withdrawn and judgments of conviction and sentence passed by learned Courts below are quashed and set aside. Petitioner-accused is acquitted of the accusation framed against him.

4. Learned Counsel for the petitioner submits that petitioner is in judicial custody and has already served some part of sentence of imprisonment and amount of compensation has also been paid by his father by arranging money from his own sources and in these circumstances, it would be in the interest of justice to exempt the payment of compounding fee in terms of ratio of law laid down by Hon''ble Apex Court in *Damodar S. Prabhu v. Sayed Babalal H.* 2010 (5) SCC 663. Learned counsel for the petitioner has also relied upon judgment of Hon''ble Apex Court in *Madhya Pradesh State Legal Services Authority v. Prateek Jain and another* 2014 (10) SCC 690.

5. In view ratio of law laid down by Hon''ble Apex Court in the aforesaid judgments, submissions made by learned counsel for the petitioner, mitigating circumstances of the present case and also that the petitioner has also served some part of sentence, the petitioner is directed to deposit Rs. 3,000/- instead of 15% of the cheque amount with H.P. State Legal Service Authority, Shimla on or before 31st December, 2016 from today.

6. After depositing compounding fee/cost, petitioner shall place copy of receipt of deposit on record of this petition. In case of default in depositing compounding fee/cost with H.P. State Legal Service Authority, Shimla on or before 31st December, 2016, the judgments of conviction and sentence shall automatically revive. The petitioner is ordered to be released in present case and is directed to be set free henceforth, unless not required in any other case.

7. Petition stands disposed of, in the aforesaid terms, so also the pending application(s), if any. Copy of judgment also be sent to H.P. State Legal Services Authority, Shimla.