

(2016) 11 SHI CK 0014
In the High Court Of Himachal Pradesh
Case No : Cr. Revision No. 126 of 2009

Dr. Karan J. Kumar

APPELLANT

Vs

M/s. Kapil Traders Dharampur

RESPONDENT

Date of Decision : 17-11-2016

Acts Referred:

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

Citation : (2016) LatestHLJ(HP) 1505

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

Bench : Single Bench

Advocate : Mr. B.C. Verma, Advocate, for the Respondents No. 1; Mr. Pankaj Negi, Deputy Advocate General, for the Respondent No. 2; Mr. Lalit K. 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 Additional Sessions Judge, Solan, H.P. in Cr. Appeal No. 16-S/10 of 1997 and Revision Petition No. 14-S/10 of 1997, dated 25.8.2009, whereby judgment and order of conviction passed by learned Judicial Magistrate, 1st Class, Solan, dated 31.1.1997 in Criminal Case No. 75/3 of 95/91, convicting and sentencing the petitioner-accused to undergo sentence till rising of the Court and to pay fine of Rs. 5,000/- was modified and the petitioner-accused was sentenced to undergo simple imprisonment for one year and to pay fine of Rs. 1,50,000/- as compensation.

2. It is jointly represented by learned counsel for the parties that matter has been amicably settled between the parties and agreement/compromise arrived at between the parties has also been placed on record along with Cr.MP No. 1118 of 2016 as Annexure P-1. As per this agreement Rs. 1,50,000/- deposited by petitioner in the Registry of this Court is to be remitted to the account of respondent No. 1, mentioned in agreement/compromise and respondent No. 1

has agreed to withdraw the complaint filed against petitioner, on the basis of which petitioner has been convicted and sentenced in the present case.

3. Consequently, respondent/complainant is permitted to withdraw the complaint 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and complaint arising out of dishonor of cheque under Section 138 of the Negotiable Instruments Act is permitted to be withdrawn and judgments of conviction and sentence passed by learned Courts below are quashed and set aside.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. The amount of Rs. 1,50,000/- deposited in the Registry of this Court along with up to date interest be released in favour of Sh. Yoginder Goel in his personal account No. 03871000028999, HDFC Bank mentioned in the application as well in the agreement deed.

4. The petitioner is also directed to deposit 15% of cheque amount i.e. Rs. 13,050/- with H.P. State Legal Service Authority, Shimla on or before 20th December, 2016 from today in view of ratio of law laid down by the Apex Court in Damodar S. Prabhu v. Sayed Babalal H. 2010 (5) SCC 663, Madhya Pradesh State Legal Services Authority v. Prateek Jain and another 2014 (10) SCC 690.

5. 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 20th December, 2016, the judgments of conviction and sentence shall automatically revive.

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