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**(2000) 08 P&H CK 0071**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Criminal Revision No. 939 of 2000 and Criminal Miscellaneous No. 29356 of 2000

M.L. Gandhi

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision :** 30-08-2000

**Acts Referred:**

Negotiable Instruments Act, 1881 (NI) — Section 138

**Citation :** (2001) 1 CivCC 604 : (2001) 1 RCR(Criminal) 697

**Hon'ble Judges :** N.C. Khichi, J

**Bench :** Single Bench

**Advocate :** Mr. Varinder Singh, for the Appellant; Mr. Harish Kinra, for the Respondent

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## **Judgement**

N.C. Khichi, J.—Under challenge in this revision is the judgment of the Addl. Sessions Judge, Panipat, dated 4.8.2000, whereby the judgment of conviction dated 19.9.1998 and order of sentence dated 22.9.1998 rendered by the Chief Judicial Magistrate, Panipat, was upheld. The petitioner was held guilty u/s 138 of the Negotiable Instruments Act (hereinafter referred to as the "Act"), on the allegation that on 31.3.1996, he issued a cheque bearing No. 960764 "110002136" for a sum of Rs. 75.000/- in favour of Lachhman Dass, respondent No. 2 which was dishonoured, on presentation and thereafter, in spite of legal notice to him, he did not pay the amount. Hence, a complaint u/s 138 of the Act was tiled. The petitioner was sentenced to rigorous imprisonment for a period of three months and to pay fine of Rs. 80,000/- and in default of payment, he was further ordered to undergo imprisonment for one month. The petitioner was further directed by the trial Court to pay an amount of Rs. 75.000/- out of fine to the complainant.

2. When the matter came up for motion hearing, the learned counsel for the petitioner stated that this client was prepared to deposit or pay Rs. 75,000/- to the complainant. The complainant appeared in the court on 18.8.2000 and the

counsel for the petitioner handed over three drafts for a sum of Rs. 25,000/- each to him. The same were accepted by Lachhman Dass. The parties filed a compromise in Court and prayed that the offence u/s 138 of the Act be allowed to be compounded in the interest of justice as the amount in question had been paid to the complainant,

In *Naimesh P. Pandya v. State of Gujarat* 1999 ISJ 345 and *A. Bhoosan- rao v. Purushothamdas Patani* 1998 ISJ 414 it was held that in a complaint case u/s 138 of the Negotiable Instruments Act, if the aggrieved party approaches the court for compounding the offence and the court is satisfied that the same is honest, genuine, true and voluntary and the same is likely to bring harmony and peace between the parties, there is, indeed, no harm in accepting such compromise. In both the cases referred to above, the complainant was allowed to compound the offence at the stage of revision in the High Court.

3. In the instant case, the parties have compromised, amount has been paid by the petitioner and accepted by the complainant in court. Thus, in the facts and circumstances of the case, this court is fully satisfied that the compromise arrived at between the parties is honest and genuine and in the interest of substantial justice between the parties, permission is accorded to compound the offence,

4. Resultantly, the revision petition is accepted and the impugned order dated 22.9.1998 of the Chief Judicial Magistrate, Panipat and that of the learned Addl. Sessions Judge, Panipat dated 4.8.2000, are hereby set-aside. Consequently, the petitioner is acquitted of the charge levelled against him. Fine if any, paid by the petitioner be refunded to him.

5. Revision allowed.