

(2022) 01 SHI CK 0007
In the High Court Of Himachal Pradesh
Case No : Criminal Revision No.325 Of 2019

Shivani Chauhan Vs Kapoor Singh And Others ???And Others

Date of Decision : 03-01-2022

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138

Citation : (2022) 01 SHI CK 0007

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Tarun Pathak, G.R. Palsra, Adarsh Sharma, Sumesh Raj, Sanjeev Sood

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this revision petition, the petitioner has challenged the judgment passed by the Court of learned Judicial Magistrate First Class, Chachiot, at Gohar, District Shimla, H.P. in criminal complaint Case No. 105-I of 2017/26-III/2017, titled as Kapoor Singh vs. Shivani Chauhan, which criminal case stood disposed of by the learned Trial Court vide judgment dated 29.06.2018, by sentencing the present petitioner, vide order of sentence dated 12.07.2018, to undergo simple imprisonment for a period of three months and to pay compensation to the tune of Rs.65,000/- to the complainant, as well as the judgment passed by the Court of learned Additional Sessions Judge(II), Mandi, District Mandi, H.P., in appeal, i.e. Criminal Appeal No. 22 of 2018, titled as Shivani Chauhan vs. Kapoor Singh and another, dated 24.06.2019, vide which, the judgment passed by learned Trial Court was upheld by the learned Appellate Court and the appeal filed by the present petitioner against the judgment passed by learned Trial Court was dismissed.

2. The Court stands informed that during the pendency of the revision petition,

the matter has been amicably settled between the petitioner and respondent No. 1. Out of the total compensation amount of Rs.65,000/-, a sum of Rs.13,000/- has been deposited before the learned Trial Court and a sum of Rs.20,000/- with the Registry of this Court. Today, a sum of Rs.33,000/- (Rs. Thirty Three Thousand Only) has been paid in cash by the petitioner to respondent No. 1 in the open Court, which amount is acknowledged by respondent No. 1. This fact is not disputed by learned Counsel for respondent No. 1.

3. Learned Counsel for the petitioner submits that in view of said development, it will be in the interest of justice, in case, this Court exercises its power of compounding the offence in terms of the judgment of Honâ??ble Supreme Court of India in Damodar S. Prabhu vs. Sayed Babalal H.

(2010) 5 Supreme Court Cases 663. He further submits that as the petitioner has made good the amount due to the respondent, it will be in the interest

of justice, in case, in terms of para-25 of the judgment of Honâ??ble Supreme Court of India (supra), the compounding fee is modified, taking into

consideration the peculiar facts of the case and the financial condition of the petitioner. He assures the Court that, in case, the offence is compounded

by this Court, then, the compounding fee, as shall be ordered by the Court, shall be paid by the petitioner within the time so granted by the Court.

4. Having heard learned Counsel for the petitioner and taking into consideration the fact that the matter, which led to filing of the criminal case under

Section 138 of the Negotiable Instruments Act, now stands settled between the parties, this Court orders the compounding of the offence in question,

subject to the payment of compounding fee at the rate of 10% of the cheque amount by the petitioner, which shall be deposited with State Legal

Service Authority, Shimla, within a period of three months from today. As a consequence, the judgment as well as order of sentence passed by

learned Judicial Magistrate First Class, Chachiot at Gohar, District Mandi, H.P. dated 29.06.2018/12.07.2018, as also the judgment passed in appeal by

learned Additional Sessions Judge(II), Mandi, H.P. dated 24.06.2019, affirming the judgment of conviction and order of sentence passed by learned

Trial Court, are ordered to be set aside. Let a compliance affidavit in this regard be thereafter filed by the petitioner within two weeks, with the

Registrar (Judicial).

5. As prayed for by learned Counsel for respondent No. 1, amount already lying deposited with learned Court below as well as in the Registry of this

Court in this case, is ordered to be released in favour of respondent No. 1, on his moving appropriate application in this regard.

6. The petition stands disposed of in above terms, so also pending miscellaneous application(s), if any.