
(2017) 02 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : 34 of 2017

Vimal Sharma

APPELLANT

Vs

Sh. Mehar Chand Sharma & Another

RESPONDENT

Date of Decision : 07-02-2017

Acts Referred:

[Negotiable Instruments Act, 1881](#), [Section 138](#), [Section 138](#) - Dishonour of cheque for insufficiency, etc., of funds in the account - Dishonour of cheque for insufficiency, etc., of funds in the account

Citation : (2017) 02 SHI CK 0002

Hon'ble Judges : Vivek Singh Thakur

Bench : Single Bench

Advocate : Surender Verma, Virender Verma, Varun Chandel

Final Decision : Disposed

Judgement

1. Present Revision Petition has been filed assailing judgment passed by learned Additional Sessions Judge (II), Mandi, H.P. in Cr. Appeal No. 29 of 2012, dated 21.6.2016, affirming judgment and order of conviction passed by Judicial Magistrate, Mandi, dated 12.1.2012 in complaint No. 73- III/2010, convicting and sentencing the petitioner-accused to undergo simple imprisonment for six months and to pay fine of Rs.55,000/-, as compensation.

2. Respondent/complainant Sh. Mehar Chand Sharma is present in person in the Court and stated that matter has been compromised with the petitioner and he has received a draft No. 373512, amounting to Rs.55,000/- dated 4th February, 2017 issued in his favour, drawn in Oriental Bank of Commerce, Sundernagar and in pursuance to the compromise, he wants to withdraw the complaint and compound the matter. His separate statement has also been recorded.

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and complaint arising out of dishonor of cheque under Section 138 of the Negotiable Instruments Act is permitted to be withdrawn and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.

4. Petitioner is ordered to be released henceforth if his custody is not required in any other case. Registry to do needful during course of day.

5. Learned counsel for the petitioner submits that petitioner is in custody and is serving sentence and prays for exemption from paying compounding fee. He has relied upon judgments of Apex Court in Damodar S. Prabhu Vs. Sayed Babalal H. 2010 (5) SCC 663, Madhya Pradesh State Legal Services Authority Vs. Prateek Jain and another 2014 (10) SCC 690. In peculiar facts and circumstances of the case, especially that petitioner has served a part of sentence of imprisonment, he is directed to deposit Rs.4,000/- instead of 15% of check amount with H.P. State Legal Services Authority, Shimla on or before 31st March, 2017.

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 March, 2017, the judgments of conviction and sentence shall automatically revive.

7. 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. Copy Dasti.