

CRR-14-2025 (O&M)

*judgment of conviction and order of sentence have been upheld by learned Additional Sessions Judge, Faridabad vide judgment dated 17.12.2024, in complaint case filed under Section 138 of Negotiable Instruments Act.*

*On 10.01.2025, following order was passed:*

**“CRR-14-2025**

*Heard.*

*Admitted.*

**CRM-429-2025**

*Learned counsel for the petitioner submits that the petitioner has been convicted and sentenced to undergo simple imprisonment for a period of 01 year and a compensation of Rs.3 lakh has been imposed upon him. He further submits that the petitioner is ready and willing to pay Rs.1.5 lakh to show his bona fide and undertakes to bring a demand draft of Rs.1.5 lakh in favour of respondent No.2 on the next date of hearing.*

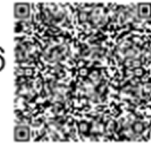
*Notice in the application.*

*Mr. Pankaj Middha, Addl.A.G., Haryana puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to produce custody certificate.*

*Let process qua respondent No.2 be issued for 30.01.2025.*

*Process be given dasti as well.”*

*Learned counsel for the applicant-petitioner has brought a demand draft of Rs. 1.5 lac which has been handed over to learned counsel for respondent No. 2 in the Court itself and copy of the same has been retained on the case file. Learned counsel for the applicant further submits that in case the petitioner’s remaining sentence is suspended, he will arrange the remaining amount of compensation.*



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*Learned counsel for respondent No. 2 seeks an adjournment to have instructions with regard to compounding of offence under section 138 of NI Act.*

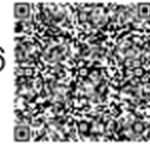
*Keeping in view the fact that applicant has undergone total custody of 02 months and 13 days (including remission) out of imprisonment of one year awarded to him and half of the amount of compensation awarded by learned Court below i.e. Rs. 1.5 lac has been handed over to learned counsel for respondent No. 2 in the Court itself, I deem it appropriate to allow this application and to suspend the sentence of applicant/petitioner-Ram Saran during the pendency of the appeal.*

*Bail to the satisfaction of the concerned Chief Judicial Magistrate/ Duty Magistrate.*

*Adjourned to 30.04.2025 for further consideration.”*

2. In compliance thereof, today, learned counsel for the petitioner has brought demand draft bearing No.349521 dated 25.04.2025 amounting to Rs.1,50,000/- in favour of PARD Bank Ltd., which has been handed over to the counsel for respondent No.2 in Court today. Photocopy of the same has also been taken on record. Registry is directed to tag the same at appropriate place.

3. Learned counsel for the petitioner submits that the entire amount of compensation has been paid to respondent No.2 in terms of judgment of conviction dated 17.08.2017 passed by learned JMJC, Faridabad. He relies upon the judgment passed by the Hon'ble Supreme Court in ***Ghanshyam Gautam and another vs. Usha Rani (since deceased) through LRs, 2024(1) CriCC 564*** to contend that once the entire amount has been paid and the same has been received by the complainant, the offence under Section 138 of NI Act can be compounded.



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4. In view of the prayer made by learned counsel for the petitioner and with the consent of both the parties, main case is taken on board for hearing today itself.

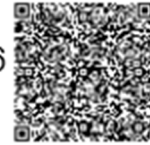
5. Learned counsel for respondent No.2 submits that he has accepted the entire amount of compensation and has nothing due towards the petitioner. He also submits that he has no objection if the offence under Section 138 of NI Act is compounded, and the petitioner is acquitted of the charges framed against him.

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioner-accused has paid an amount of Rs.3,00,000/- to the respondent-complainant and the same has been accepted by the complainant.

7. It is settled law that the proceedings initiated under Section 138 of the NI Act are quasi-criminal in nature and the object and purpose of this enactment is to provide a compensatory mechanism for expeditious recovery of money as opposed to punishing the accused. The Hon'ble Supreme Court in ***R. Vijayan Vs. Baby (2012) 1 SCC 260*** has considered the said issue and come to the conclusion that punishing the offender is secondary concern.

8. Moreover, the amendment carried out in the year 2002 in the NI Act intended to make the nature of offence under Section 138 of the NI Act as a civil wrong while making it compoundable. A two Judge Bench of the Hon'ble Supreme Court in ***Meters and Instruments Private Limited and another Vs. Kanchan Mehta (2018) 1 SCC 560***, speaking through Justice A.K. Goel has held as under:-

*“7. This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions’ cheques were issued merely as a device to defraud the creditors. Dishonour of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable*



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*Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable.....*

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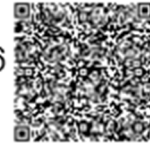
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*18.2. The object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, compounding at the initial stage has to be encouraged but is not debarred at later stage subject to appropriate compensation as may be found acceptable to the parties or the court.*

*18.3. Though compounding requires consent of both parties, even in absence of such consent, the court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused.”*

9. Moreover, a two Judge Bench of the Hon'ble Supreme Court in ***JIK Industries Limited and others Vs. Amar Lal V. Jumaní and another (2012) 3 SCC 255*** has examined the issue whether for compounding of an offence, consent of aggrieved party is required and speaking through Justice Asok Kumar Ganguli, following was held:-

*“82. A perusal of Section 320 makes it clear that the provisions contained in Section 320 and the various sub-sections is a code by itself relating to compounding of offence. It provides for the various parameters and procedures and guidelines in the matter of compounding. If this Court upholds the contention of the appellant that as a result of incorporation of Section 147 in the NI Act, the entire gamut of procedure of Section 320 of the Code are made inapplicable to compounding of an offence under the NI Act, in that case the compounding of offence under the NI Act will be left totally unguided or uncontrolled. Such an interpretation apart from being an absurd or unreasonable one will also be contrary to the provisions of Section 4(2) of the Code, which has been discussed above. There is no other statutory procedure for compounding of offence under the NI Act. Therefore, Section 147 of the NI Act must be reasonably construed to mean that as a result of the said section the offences under the NI Act are made compoundable, but the main principle of such compounding, namely, the consent of the person aggrieved or the person injured or the complainant*



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*cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.”*

10. Consequently, in view of the above discussion and the fact that entire amount of compensation has been paid, the present revision petition is allowed. The judgment of conviction and the order of sentence dated 17/19.08.2017 passed by learned Judicial Magistrate 1st Class, Faridabad as well as impugned judgment dated 17.12.2024 passed by Addl. Sessions Judge, Faridabad are hereby set aside. The petitioner is acquitted of the notice of accusation and his bail bonds and surety bonds also stand discharged.

30.04.2025  
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**(HARPREET SINGH BRAR)**  
**JUDGE**

Whether speaking/non-speaking?  
Whether reportable?

Yes/No  
Yes/No