



(224) **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-24203-2025 in/and
CRR-1540-2025 (O&M)
Date of Decision: June 23, 2025**

Gaba Trading Company and anotherPetitioners

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Rajiv Vij, Advocate,
for the petitioners.

Mr. Athar Ahmed, DAG, Punjab.

Ms. Asha Rani, Advocate with
Sh. Naresh Kumar (complainant-respondent No.2 in person).

HARKESH MANUJA, J. (ORAL)

CRM-24203-2025

Prayer in this application is for compounding of offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, "NI Act").

Notice of the application.

Mr. Athar Ahmed, DAG, Punjab accepts notice on behalf of respondent No.1, whereas, Ms. Asha Rani, Advocate accepts notice on behalf of respondent No.2 and raises no objection to the aforesaid course.

Having heard learned counsel for the parties and gone through the contents of the application, prayer made in the application is allowed.

CRR-1540-2025

By way of present petition, prayer has been made for setting aside of the order dated 10.06.2025 passed by learned Sessions Judge, Fatehgarh Sahib, whereby the appeal filed by the petitioners against the judgment of conviction dated 26.02.2024 and order of sentence dated 29.02.2024 passed by the learned Judicial Magistrate Ist Class, Fatehgarh Sahib, was dismissed.

[2] Petitioner No.2 was convicted in a criminal complaint No.200/2022 dated 20.05.2025, titled "*Naresh Kumar vs. Gaba Trading Company and another*", under Section 138 of NI Act, vide judgment of conviction dated 26.02.2024 and order of sentence dated 29.02.2024 passed by the learned Judicial Magistrate Ist Class, Fatehgarh Sahib and sentenced to undergo simple imprisonment for a period of 01 month and to pay compensation to the tune of Rs.40,000/- along with interest @ 6% per annum since the date of issuance of cheque till the date of actual realization to the complainant.

[3] Appeal preferred by the petitioners against the aforesaid judgment of conviction and order of sentence was also dismissed by the learned Sessions Judge, Fatehgarh Sahib on 10.06.2025. Hence, the present revision petition.

[4] At the outset, learned counsel for the petitioners submits that the matter has since been compromised and a draft bearing No.581832 (Punjab National Bank) of Rs.57,400/-, drawn in favour of respondent No.2-complainant has already been deposited in the Registry of this Court in terms of order dated 19.06.2025, thus, the continuation of proceedings against the petitioners would be a futile exercise and thus, not justified.

[5] Notice of motion.

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[6] Mr. Athar Ahmed, DAG, Punjab accepts notice on behalf of respondent No.1, whereas, Ms. Asha Rani, Advocate accepts notice on behalf of respondent No.2.

[7] Learned counsel for respondent No. 2, on instructions, does not dispute the aforesaid factual position and states that nothing remains due. She also submits that she has no objection in case the present revision petition is accepted on the basis of settlement.

[8] I have heard learned counsel for the parties and gone through the paper-book.

[9] A conjoint reading of Section 138 read with Section 147 of the NI Act, makes it clear that every offence punishable under the NI Act is compoundable. Section 147 of the aforesaid Act is reproduced hereunder for reference:-

“147 Offences to be compoundable. —

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.”

[10] Applying the aforesaid proposition to the facts and circumstances of the present case, the petitioners having settled the dispute with respondent No.1-complainant by making the entire payment, offence committed by the petitioners under Section 138 of the NI Act, thus, stand compounded.

[11] Furthermore, following the law laid down by the Hon'ble Supreme Court in case of ***“B.V. Seshaiiah Versus The State of Telangana & Anr., 2023(1)R.C.R. (Criminal) 831”***, the compounding of offence has to be followed by setting aside of conviction order passed by the Court below. Reference may be made to Paragraph Nos. 10-13 thereof, which are reproduced hereunder:-

“10. *In the case of M/s Meters and Instruments Private Limited & Anr. Vs. Kanchan Mehta, this Court held that the nature of offence under Section 138 of the N.I. Act is primarily related to a civil wrong and has been specifically made a compoundable offence. The relevant paragraph of the judgment has been extracted herein:*

‘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 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.’

11. *This is a very clear case of the parties entering into an agreement and compounding the offence to save themselves from the process of litigation. When such a step has been taken by the parties, and the law very clearly allows them to do the same, the High Court then cannot override such compounding and impose its will.*

12. *It must also be noted that the respondent No.2 was duty-bound to file a compromise petition before the High Court, and by not doing the same has withdrawn key information from the High Court, which has led to an unwarranted confirmation of the Appellants’ conviction.*

13. *We, therefore, allow these Appeals and set aside the order of conviction passed by the trial Court. It is, however, kept open to the parties to settle their dispute as per the terms of the Memorandum of Understanding.”*

[12] Thus, in view of the aforesaid facts as well as keeping in mind the law laid down in the aforementioned judgment, the petition is allowed and the judgment of conviction and order of sentence (supra) passed by the Courts below are hereby set aside. Petitioner No.2 is hereby acquitted of the notice of accusation framed against him. Petitioner No.2 is directed to be set at liberty forthwith, if he is not required in any other case.

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[13] Furthermore, the amount deposited by the petitioners in terms of settlement be immediately released by the Registry of this Court to respondent No.2-complainant upon due identification.

[14] Pending miscellaneous application(s), if any, shall also stand disposed of.

23.06.2025
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(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>