



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

114

**CRR-1036-2025 (O&M)  
Date of decision: 05.05.2025**

**BHOLA SINGH**

...Petitioner

V/s

**M/S SHIV CHAND KRISHAN KUMAR**

...Respondent

**CORAM: HON'BLE MR. JUSTICE H.S.GREWAL**

Present: Ms.Prabhjot Kaur Virk, Advocate, for the petitioner.

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**H.S.GREWAL, J. (ORAL)**

1. This revision petition has been filed against the order dated 01.02.2019 passed by the learned trial Court, Talwandi Sabo in criminal complaint No.COMA/115 of 2015 under Section 138 of the Negotiable Instruments Act, whereby the petitioner was convicted and sentenced to undergo imprisonment for a period of 01 year along with fine of Rs.5000/- as well as order dated 01.03.2025 passed by the learned Additional Sessions Judge, Bathinda whereby the appeal preferred by the petitioner was dismissed and upheld the sentence awarded by the trial Court.

2. Notice of motion.

3. Mr.Rajeshwar Singh Thakur, Advocate accepts notice on behalf of the complainant. He filed an affidavit on behalf of the complainant which is taken on record. He submits that the matter has been amicably settled as the cheque amount in question has already been paid and nothing is left due towards the petitioner. He undertakes that he would withdraw the aforesaid complaint and has no objection if the petitioner may be acquitted of the charges.



4. I have heard learned counsel for the parties and have perused the relevant material placed on record.

5. It is settled law that the proceedings initiated under the 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.

6. 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 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.....*

xxxx xxxx xxxx



*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.”*

7. Moreover, a two Judge Bench of the Hon’ble Supreme Court in ***JIK Industries Limited and others Vs. Amar Lal V. Jumani 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 cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.”*

8. Offence punishable under Section 138 of the Act is a compoundable offence. It appears that in the present case, parties have settled their dispute with regard to dishonour of cheque in question. In the given circumstances, the petitioner deserves to be acquitted of the offence punishable under Section 138 of the Act.

9. For the foregoing reasons, the present petition is allowed and the impugned judgments passed by the Courts below are set aside and the petitioner is acquitted of the notice of accusation framed against him under Section 138 of the Act.

10. The petitioner be released from custody if he is not required in any other case.

11. Pending CRM(s), if any, are also disposed of accordingly.

May 05, 2025  
poonam

**(H.S.GREWAL)**  
**JUDGE**

Whether speaking/reasoned:  
Whether reportable:

Yes/No  
Yes/No