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

CRM-11594-2025 IN/AND CRR-759-2025(O&M)

Date of decision: 21.03.2025

Pawan Kumar Sharma and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Puja Chopra, Advocate for applicant-petitioners.

MAHABIR SINGH SINDHU, J.

CRM-11594-2025

Application under Section 5 of Limitation Act, 1963 for condonation of delay of 244 days in filing the present revision.

Notice of the application to non-applicant-respondents.

Ms. Manjot Kaur, learned AAG, Punjab accepts notice on behalf non-applicant-respondent No.1 and Ms. Mandeep Kaur, Advocate accepts notice on behalf of non-applicant-respondent No.2 and have raised no objection to the prayer made by applicant-petitioners.

In view of the above and for the reasons mentioned in the application, same is allowed as prayed for subject to all just exceptions. Delay of 244 days in filing the present revision is hereby condoned.

Main case

Present revision petition has been filed for setting aside the impugned judgment and order on quantum of sentence dated 12.12.2022 passed by learned Judicial Magistrate First Class, Ferozepur (for short 'JMIC') in complaint case bearing No. NACT 25/2019 dated 08.01.2019 under Section 18



of Negotiable Instruments Act, 1881 (for short 'NI Act') whereby petitioners were sentenced to undergo rigorous imprisonment for a period of 01 year for commission of offence punishable under Section 138 of NI Act and also to pay compensation to the tune of cheque amount alongwith interest @ 9% per annum from the date of issuance of cheque; and judgment dated 09.04.2024 passed by learned Appellate Court, Ferozepur, whereby appeal preferred against the aforesaid judgment of conviction and order on quantum of sentence dated 12.12.2022 was dismissed.

2. Facts of the case as recorded in the judgment dated 12.12.2022 passed by learned JMIC, are recapitulated as under:-

“ Brief facts of the complaint are that present complaint is filed by Varun Kumar Sethi who is the partner of M/s Sethi Rice Mills. Accused no. 1 is doing the business of sale-purchase of rice, grinding rice husk, chilka etc under the name and style of M/s R.K.Trading Co. That accused approached complainant in the month of October 2018 for purchase of grinding rice husk. An amount of Rs. 10,04,325/- is outstanding against them qua the said purchase. When the complainant demanded the aforesaid amount from the accused, then the accused no. 1 being the proprietor of accused no. 2 in order to discharge his legal liability towards complainant, issued four cheques ie two cheques of his wife Aarti Sharma from account no. 4750000100019243 of Punjab National Bank, Amritsar Road, Moga bearing no. 948335 dated 30.10.2018 for an amount of Rs. 50,000/-, cheque no. 948334 dated 01.11.2018 for an amount of Rs.50,000/- and two from his firm's account bearing no. 81431010001001 bearing cheque no. 803449 dated 01.11.2018 for an amount of Rs. 3 Lacs and cheque no. 803453 dated 01 11.2018 for an amount of Rs. 4 Lac drawn at Syndicate Bank, Moga. Subsequently, in order to claim the amount of cheque no. 803453 dated 01.11.2018 of Rs. 4 Lac, complainant presented the said cheque for encashment



through his banker, but the same was dishonored by the banker of the accused vide memo dated 05.11.2018 with remarks "Payment stopped by drawer". Resultantly, legal notice dated 22.11.2018 was issued to the accused by the complainant through his counsel by post on 27.11.2018. But accused failed to pay the cheque amount to the complainant within the statutory period. Hence, present complaint is filed."

3. Contends that matter has been amicably settled between the parties i.e. petitioners and respondent No.2. Also contends that entire cheque amount alongwith interest @ 9% per annum from the date of issuance of cheque till the date of decision i.e. 12.12.2022 as awarded by learned JMIC vide judgment and order dated 12.12.2022 which was upheld by learned Appellate Court has already been paid to the respondent No.2. Further contends that permission may be granted to petitioners to compound the offence as contemplated under Section 147 of the NI Act.

4. Notice of motion.

5. Ms. Manjot Kaur, learned AAG, Punjab accepts notice on behalf of respondent No.1 and Ms. Mandeep Kaur, Advocate causes appearance on behalf of respondent No. 2.

6. Learned counsel for respondent No.2 has duly acknowledged the factum of settlement arrived at between the parties i.e. petitioners and respondent No.2 and has raised no objection to the prayer made by petitioners.

7. Heard both sides and perused the paper-book.

8. It transpires that parties went through various stages of litigation before the matter has reached to this Court by way of present revision petition. Now, petitioners have entered into settlement with respondent No.2 and are seeking to set aside their conviction recorded by both the Courts below on the



basis of settlement arrived at between the parties. Still further, respondent No.2 has not opposed the prayer of the petitioners; rather acknowledged the factum of settlement.

9. Hon’ble the Supreme Court in ‘Damodar S.Prabhu Vs. Sayed Babalal H.’ 2010(5) SCC 663, while dealing with the matter regarding compounding of offence punishable under Section 138 of NI Act, issued certain guidelines and relevant part of Para No. 21 reads as under:-

“ 21.....

The guidelines

(i) *In the circumstances, it is proposed as follows:-*

(a)

(b)

(c) *Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.*

.....”

10. In view of the above, this Court deems it appropriate to allow the compounding of offence and to set aside the conviction of petitioners imposed in the impugned judgments dated 12.12.2022 and 09.04.2024 (*ibid*).

11. Ordered accordingly.

12. Consequently, petition is allowed; impugned judgments dated 12.12.2022 and 09.04.2024 passed by both the Courts below are set aside, subject to the condition that petitioners will deposit costs @ 15% of the cheque amount in terms of aforesaid judgment of Hon’ble the Supreme Court and on doing so, petitioners stand acquitted.

13. Costs be deposited with Punjab and Haryana High Court Employees Welfare Association, Account No. 37167209613, IFSC Code:



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SBIN0050306, State Bank of India, High Court Branch, Chandigarh within a period of 06 weeks from today.

14. Bail bonds and surety bonds of petitioners stand discharged and they be released from custody, if not required in any other case.

Pending application(s), if any, shall also stand disposed off.

21.03.2025

Harish Kumar

**(MAHABIR SINGH SINDHU)
JUDGE**

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