

Kusum Raj versus Ram Chander (deceased)
through his LRs Khem Chand and Ors.

Criminal Revision No. 137 of 2012

08.04.2024 Present: Mr. Imran Khan, Advocate, for the petitioner.

Mr. Sandeep Sharma, Advocate, for
respondents No. 1(a) and 1(b).

Mr. Prashant Sen, Deputy Advocate General
for respondent No.2.

Heard learned counsel for the parties for some time. In terms of the judgment of conviction and sentence dated 08.05.2008/09.05.2008 passed by the Learned Additional Chief Judicial Magistrate, Court No.1, Mandi, (HP) in Complaint Number 153-III/2004 **[hereinafter referred to as 'Trial Court']** whereby, the petitioner-accused [Kusum Raj] was convicted and sentenced to undergo simple imprisonment for six months and was fastened with liability of Rs 50,000/- which stands affirmed on 31.05.2012 by the Learned Sessions Judge, Mandi, District Mandi, (HP) **[hereinafter referred to as the 'Appellate Court']** in Criminal Appeal No. 16 of 2008.

Feeling aggrieved against the judgment of conviction and sentence, the petitioner-accused [Kusum Raj] has come up before, this Court, in the instant Criminal Revision No.137 of 2012.

Cr.MP No. 282 of 2024

2. During the pendency of the instant criminal proceedings, the petitioner-accused [Kusum Raj] has filed the instant application praying for compounding of the aforesaid offences by invoking Section 147 of the Negotiable Instruments Act.

3. On issuance of notice, on this application, the non-applicant/respondent-complainant-Ram Chander (Deceased) through legal heirs have filed the reply to this application.

4. Heard the Learned Counsel for the parties at length.

5. Mr. Sandeep Sharma, Learned counsel for the non-applicants/respondents-complainants submits that though the cheque amount was Rs 1,65,000/- but the Learned Trial Court has awarded compensation of Rs 50,000/- and therefore, the offence may not be compounded.

6. *The above contention is without any merit,* for the reason that the judgment passed by Learned Trial Court on 08.05.2008/09.05.2008 awarding compensation of Rs 50,000/-, has been accepted by the Respondent-Complainant; and has never been assailed by the respondent-complainant by way of Cross-Appeals or proceedings. Further once this judgment has attained

finality, then, the non-applicant/respondent complainant has neither any right nor locus standi, to object to the prayer for compounding, at this stage.

Moreover, the Hon'ble Apex Court in *(2018) 1 Supreme Court Cases 560*, titled as **Meters and Instruments Private Limited and Another** versus **Kanchan Mehta** has mandated in Para 18.3 that in normal parlance, the compounding requires the consent of both the parties, yet an exception has been carved out where, 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 discharged the accused. In this backdrop, the objection by the non-applicants-complainant(s) [being the legal heirs of the original respondent-complainant, now died] is devoid of any merit.

6. However, keeping in view the peculiar facts of this case are that the dispute relates to the cheque pertaining to the year 2004 and 20 years have elapsed; then, this Court in the interests of justice can proceed towards imposition of **“Additional Compensation”** against the petitioner-accused so as to compensate the Respondent-Complainant, in terms of mandate of Hon'ble

Supreme Court, *in 2018 (3) SCC 287 titled as*
P. Ramadas versus State of Kerala & Anr.

In this view of the above, list the matter after
two weeks.

(Ranjan Sharma)
Judge

April, 08 2024,
(himani)