

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

Cr. Revision No. 118 of 2015

Decided on :27.12.2017

Rajesh Kumar

...Petitioner

Versus

Roshan Lal

...Respondents

Coram

Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting?

**For the petitioner : Mr. Naveen K. Bhardwaj,
Advocate.**

For the respondent : Ms. Reeta Thakur, Advocate.
Sureshwar Thakur, Judge (oral)

The instant petition stands instituted at the instance of the petitioner herein under Section 397 read with Section 401 of the Code of Criminal Procedure and is directed against the judgment of conviction recorded by the learned Additional Sessions Judge-I, Kangra at Dharamshala in cr. Appeal No.21-D/X/2015, whereby he affirmed the conviction recorded by the learned Judicial Magistrate, 1st Class, Dharamshala in case No.

71/10/09/2008, upon the accused/petitioner, for his committing an offence punishable under Section 138 of the Negotiable Instruments Act besides affirmed the imposition upon the petitioner/accused by the learned trial Court, of sentence(s) of simple imprisonment extending for a term of three months besides his being liable to pay compensation comprised in a sum of Rs. 5,00,000/-

2 During the pendency of the instant revision petition before this Court, the learned counsel appearing for the contesting parties, have hereat made a joint prayer qua this Court proceeding to record an order for compounding the offence constituted by the dishonour of negotiable instrument issued by the petitioner/accused vis-a-vis the respondent-complainant.

3. The respondent/complainant, has, in his rendered signed statement, on oath, made a disclosure therein, of the entire liabilities arising out of dishonour of negotiable instrument standing liquidated vis-à-vis him by the petitioner/accused, comprised in his depositing a sum of Rs. 5,00,000/-

in the trial Court. He makes a prayer in his signed statement, that, in case the sum(s) of money deposited by the petitioner/convict, are ordered, to be released vis-a-vis the respondent/complainant, thereupon this Court may proceed to record an order for compounding the offence arising out of dishonour of negotiable instrument. The aforesaid statement rendered by the respondent is accepted by the petitioner/convict, under the latter's signed statement on oath. He has therein stated that he has no objection if the sum(s) of money, deposited, by him in the trial Court concerned, are ordered to be released in favour of the respondent/complainant.

3. Cumulatively, this Court is constrained to order for composition of the offence arising from dishonour of negotiable instrument. In sequel, the revision petition is accepted. The judgments impugned before this Court are quashed and set aside. The accused/petitioner is acquitted of the charge framed against him. The trial Court concerned is directed to release a sum of Rs. 5,00,000/-,

deposited, by the petitioner/convict before it, in favour of the respondent/complainant. However, the aforesaid order shall take effect, upon, the petitioner/accused depositing, within three months from today, 15% of the cheque amount, before the State Legal Services Authority.

(Sureshwar Thakur)
Judge

December 27, 2017
Kalpana