

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Criminal Revision No.512 of 2022****Date of Decision: 6.5.2026****Kamal Sharma****.....Petitioner****Versus****Joginder Singh****.....Respondent****Coram****Hon'ble Mr. Justice Sandeep Sharma, Judge.****Whether approved for reporting?****For the Petitioner:** Mr. Karan Singh Kanwar, Advocate.**For the Respondent:** Ms. Dhanvanti Devi, Advocate.**Sandeep Sharma, J. (Oral)**

Instant criminal revision petition, lays challenge to judgment dated 1.9.2022, passed by the learned Additional Sessions Judge-II, Solan, District Solan, Himachal Pradesh in Criminal Appeal No. 23ASJ-II/10 of 2020(2018), affirming judgment of conviction and order of sentence dated 23.6.2018, passed by the learned Judicial Magistrate First Class-I, Solan, District Solan, Himachal Pradesh in Criminal Case No. 256-3 of 2008, whereby the learned trial Court while holding the petitioner-accused guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act (in short the "Act"), convicted and sentenced him to undergo simple imprisonment for a period of one year and pay compensation to the tune of Rs. 16,38,000/- to the complainant.



2. Precisely, the facts of the case, as emerge from the record are that respondent-complainant instituted a complaint under Section 138 of the Act, in the court of competent court of law, alleging therein that cheque bearing No. 540792 dated 15.7.2008, amounting to Rs. 8,19,000/-, was dishonoured on account of insufficient funds. Since despite issuance of legal notice, accused failed to make the payment good within stipulated time, respondent/complainant had no option but to institute proceedings in the competent Court of law under Section 138 of the Act, which subsequently, on the basis of material adduced on record by the respective parties, vide judgment/order dated 23.6.2018 held the petitioner-accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given herein above.

3. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the court below, accused preferred an appeal in the court of learned first appellate court, which also came to be dismissed vide judgment dated 1.9.2022, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present petitioner-accused has approached this Court by way of instant proceedings, seeking therein his acquittal after setting aside the judgments of conviction recorded by the courts below.



4. Vide order dated 23.9.2022, substantive sentence imposed by the court below came to be suspended, subject to petitioner's furnishing bonds in the sum of Rs. 30,000/- with one surety of the lime amount to the satisfaction of the learned trial Court within a period of four weeks. Aforesaid order was duly complied with.

5. Having heard learned counsel for the parties and perused material available on record, this court finds that during the pendency of the appeal before the learned Additional Sessions Judge-II, parties were able to settle their matter amicably through mediation, whereby petitioner-accused had agreed to pay sum of Rs.6,41,000/- in two installments i.e. first installment of Rs. 41,000/- which was to be paid before 21.12.2018 and second installment of Rs. 4,50,000/- within 42 days from the date of execution of the compromise (Ext.C-1). It was also agreed inter-se parties that sum of Rs. 1,50,000/- lying deposited with the learned trial Court, shall be released to the complainant.

6. Though in terms of compromise, petitioner paid the first installment of Rs. 41,000/-, but since he was unable to pay the second installment within time frame, learned Sessions Judge, Solan, despite his having noticed factum of compromise as well as receipt of entire amount otherwise agreed to be paid by the petitioner in terms of compromise,



proceeded to dismiss the appeal and upheld judgment of conviction and order of sentence recorded by the court below.

7. Learned counsel for the petitioner submitted that since it is not in dispute that in terms of compromise arrived inter-se parties in the mediation proceedings, entire amount stands paid to the respondent, delay, if any, in making the payment of second installment could not be a ground for learned Additional Sessions Judge to reject the prayer made by the petitioner for compounding the offence under Section 147 of the Act, especially when date was fixed by the court for making remaining payment.

8. Though Ms. Dhanwanti Devi, learned counsel representing the respondent fairly admitted that second installment was paid on or before the date fixed by the learned Additional Sessions Judge, but she submitted that since amount settled inter-se parties was not paid within time stipulated in the agreement, no illegality can be said to have been committed by the learned Additional Sessions Judge while upholding the judgment of conviction and order of sentence by the court below, however, she submitted that in case this Court directs the petitioner to pay some additional compensation on account of delay, respondent shall have no objection in compounding the offence.

9. Aforesaid proposal of learned counsel is acceptable to Mr. Karan Singh Kanwar, learned counsel for the petitioner.



10. Since it is not in dispute, rather stands admitted that in terms of compromise arrived inter-se parties, sum of Rs. 6,41,000/- stands received by the respondent/complainant coupled with the fact that he has no objection in compounding the offence alleged to have been committed by the petitioner subject to payment of amount of compensation, this court sees no impediment in compounding the offence alleged to have been committed by the petitioner, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex Court in ***Damodar S. Prabhu V. Sayed Babalal H. (2010) 5 SCC 663***, wherein it has been categorically held that court, while exercising power under Section 147 of the Act, can proceed to compound the offence even after recording of conviction by the courts below.

11. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 23.6.2018 and 1.9.2022, passed by the courts below are quashed and set-aside and the petitioner-accused is acquitted of the charge framed against him under Section 138 of the Act. Interim order, if any, is vacated. Bail bonds, if any, are discharged. Since respondent-complainant was unnecessarily compelled to institute legal proceedings against the accused that too for realization of his own money, this court deems it fit to direct the accused to pay sum of Rs. 25,000/- as litigation cost, to the respondent-



complainant, payable within two months. Ordered accordingly. Apart from above, petitioner shall also be liable to pay sum of Rs.5,000/- as compounding fee with the Himachal Pradesh State Legal Services Authority, within aforesaid period, failing which, accused besides rendering himself liable for penal consequences would also invite contempt proceedings. Registry of this Court as well as learned trial Court are directed to release the amount lying deposited with them in favour of the complainant on filing appropriate application within one week, providing therein saving bank account details of the complainant. The petition is disposed of along with pending applications, if any.

May 6, 2026

(manjit)

**(Sandeep Sharma),
Judge**