



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No.671 of 2022

Date of Decision: 23.03.2026

Sh. Harish Kumar

.....Petitioner

Versus

Sh. Rakesh Soni

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Abhay Gupta, Advocate.

For the Respondent: Mr. Bharat Bhushan, Advocate.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition filed under Section 397 read with Section 401 of Cr.P.C., lays challenge to judgment dated 27.09.2022, passed by learned Additional Sessions Judge, (CBI), Shimla, H.P., in Criminal Appeal No.41-R/10 of 2021, affirming the judgment of conviction and order of sentence dated 06.01.2020/12.03.2020 passed by learned Additional Chief Judicial Magistrate, Court No.1, Rohru, District Shimla, H.P., in criminal case No.348/3 of 2018, whereby learned Court below, while holding petitioner-accused (**hereinafter 'accused'**) guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act (**for short 'Act'**) convicted and sentenced him to undergo simple imprisonment for a period of one year and pay compensation to the tune of Rs.1,00,000/- to the respondent-complainant (**hereinafter 'complainant'**).



2. Precisely, the facts of the case as emerge from the record are that complainant filed a complaint under Section 138 of the Act in the competent Court of law, alleging therein that accused with a view to discharge his liability issued cheque amounting to Rs.75,000/-, however, the same was dishonoured on account of insufficient funds in the bank account of the petitioner-accused. Since petitioner-accused failed to make the payment good within the time stipulated in the legal notice, complainant was compelled to initiate proceedings under Section 138 of the Act before the competent Court of law.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment and order dated 06.01.2020/12.03.2020, held the accused guilty of having committed offence punishable under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given hereinabove.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the learned Court below, accused preferred an appeal in the court of learned Additional Sessions Judge, (CBI), Shimla, H.P., which came to be dismissed vide judgment dated 27.09.2022, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present 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.

5. Vide order dated 03.01.2023, this Court suspended the substantive sentence imposed by the learned trial Court below subject to



petitioner's furnishing personal bond in the sum of Rs.10,000/- within a period of four weeks.

6. Today, during proceedings of the case, learned counsel for the petitioner, states that accused is ready and willing to make payment of entire compensation amount awarded by the learned Court below. He states that accused has no objection in case, amount lying deposited with the Registry of this Court as well as learned trial Court are ordered to be released in favour of the complainant and this Court while exercising power under Section 147 of the Act may proceed to compound the offence and acquit the accused from the charge framed against him.

7. Mr. Bharat Bhushan, learned counsel representing the respondent/complainant, states that he has instructions to depose on behalf of respondent. He states that in case, entire amount of compensation lying deposited with the learned trial Court as well as Registry of this Court is ordered to be released in favour of the complainant, complainant shall have no objection in case the judgments of conviction passed by the learned Courts below are quashed and set aside the petitioner is acquitted of the charge framed against him. However, some amount of litigation charges may be awarded in favour of complainant because he was unnecessarily dragged into litigation for realization of his own money. His statement is taken on record.

8. Since parties have resolved to settle their dispute amicably *inter se* them, as has been taken note hereinabove, coupled with the fact that complainant has no objection in compounding the offence, in the event of his being released the amount lying deposited with the Registry of



this Court as well as learned trial Court, this Court sees no impediment in accepting the prayer made on behalf of the accused for compounding the offence, 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.

9. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 27.09.2022 and 06.01.2020/12.03.2020, 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. The petition is disposed of along with pending applications, if any.

10. Entire compensation amount deposited by the petitioner-accused with the learned trial Court as well as Registry of this Court is ordered to be released in favour of complainant, if not already released, by remitting the same in his bank account, detail whereof, shall be furnished by his counsel within a period of one week.

11. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of his own amount, accused is directed to deposit sum of ₹5,000/- with the HP State Legal Service Authority as compounding fee and Rs.10,000/- as litigation charges payable to the



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complainant within a period of six weeks, failing which he shall render himself liable for penal consequences as well as contempt of court.

(Sandeep Sharma)
Judge

March 23, 2026
(Rajeev Raturi)