<u>IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA</u>

Cr. Revision No.585 of 2024
Date of Decision: 22.04.2026

Shri Surinder Singh Gill ....**Petitioner**

Versus

State Bank of India ....**Respondent**

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioner: Mr. Goldy Kumar, Advocate.

For the Respondent: Mr. Arvind Sharma, Advocate.

<u>Sandeep Sharma, J</u>. *(Oral)*

Instant criminal revision petition filed under Section 438 read with Section 442 of Bharatiya Nagrik Suraksha Sanhita, 2023, lays challenge to judgment dated 08.07.2024 passed by learned Additional Sessions Judge (I), Kangra at Dharamshala, District Kangra, H.P., in Criminal Appeal No.3-D/X/2021, affirming the judgment of conviction and order of sentence dated 27.03.2021 passed by learned Judicial Magistrate First Class, Court No.2, Kangra, District Kangra, H.P., in Criminal Complaint No.149-III/2018, whereby court below, while holding the petitioner-accused ***(in short "accused")*** guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act ***(in short 'Act')*** convicted and sentenced him to undergo simple imprisonment for a period of six months and pay compensation to the tune of Rs.1,32,121/- to the complainant ***(in short '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 obtained loan of Rs.6,45,000/- from the complainant bank for purchasing tractor with trolly and water tank. Though accused undertook to pay the installments regularly, but fact remains that on account of non-payment of installments, his account has become overdue. Accused with a view to discharge his lawful liability issued cheque bearing No.665556 dated 14.05.2018 amounting to Rs.1,21,121-46 in favour of the complainant, but fact remains that aforesaid cheque on its presentation, was dishonoured on account of insufficient funds in the bank account of the accused. Since accused failed to make the payment good within the time stipulated in the legal notice, complainant was compelled to initiate proceedings before the competent Court of law under Section 138 of the Act.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 27.03.2021, held the accused guilty of having committed offence 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 (I), Kangra at Dharamshala, District Kangra, H.P., which came to be dismissed vide judgment dated 08.07.2024, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, accused has approached this Court by way of

instant proceedings, seeking therein for his acquittal after setting aside the judgments of conviction recorded by the courts below.

5. Before case at hand could be heard and decided on its own merit, accused settled the matter with the complainant/bank by paying/depositing entire amount of compensation awarded by the Court below. On 18.04.2026, accused is deposited sum of Rs.70,000/- in his loan account and sum of Rs.66,300/- deposited with the trial Court.

6. Mr. Goldy Kumar, learned counsel for the accused, states that amount lying deposited with the court below can be ordered to be released in favour of the complainant-bank and thereafter, this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused from the charges framed against him.

7. Mr. Arvind Sharma, learned counsel representing the complainant-bank, states that though bank is not averse to compound the offence, but sum of Rs.70,000/- stated to be deposited on 18.04.2026 in the loan account of the accused cannot be said to be paid/deposited towards compensation awarded by Court below. Since it is not in dispute that accused has deposited sum of Rs.70,000/- in his loan account, which had become irregular on account of non-payment of installments, coupled with the fact that for regularizing the account, petitioner had issued cheque, which is the subject matter of the present case, this Court is not persuaded to agree with Mr. Arvind Sharma, learned counsel representing the respondent, that sum of Rs.70,000/- deposited in the loan account cannot be treated to be deposited towards compensation awarded by the Court below.

8. Since parties have resolved to settle the 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 its being released the amount lying deposited with the 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 Cou*rt 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 discussion made hereinabove as well as law taken into consideration, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 08.07.2024 and 27.03.2021, passed by the learned courts below are quashed and set-aside and the 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 alongwith pending applications, if any.

10. Sum of Rs.66,300/- lying deposited by the accused with the learned trial Court is ordered to be released in favour of the complainant by remitting the same in its bank account, detail whereof, shall be furnished 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 Rs.5,000/- with the HP State Legal Service Authority as compounding fee and Rs.10,000/- as litigation charges payable to the complainant within a period of eight weeks, failing which, he shall render himself liable for penal consequences as well as contempt of court.

(Sandeep Sharma)
Judge

April 22, 2026
(sunil)