



2026:HHC:25403

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Revision No.106 of 2025
Date of Decision: 29.06.2026**

Sh. Rakesh Kumar		Petitioner
	Versus	
Sh. Sukh Chain		Respondent

Coram**Hon'ble Mr. Justice Sandeep Sharma, Judge.****Whether approved for reporting?****For the Petitioner:** Mr. Virender Thakur, Advocate vice Mr. Rahul Thakur, Advocate.**For the Respondent:** Mr. Jeevesh Sharma, Advocate.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition filed under Section 438 read with Section 442 of Bharatiya Nagrik Suraksha Sanhita, 2023, lays challenge to judgment dated 08.04.2024 passed by the learned Additional Sessions Judge-II, Shimla, District Shimla, H.P., in Criminal Appeal No.28-S/10 of 2023, affirming the judgment of conviction dated 01.08.2023 and order of sentence dated 25.08.2023 passed by the learned Additional Chief Judicial Magistrate, Theog, District Shimla, Himachal Pradesh, in criminal complaint No.183/2020, whereby learned Court below, while holding the 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.2,00,000/- to the respondent-complainant (hereinafter '**complainant**').

2. Precisely, the facts of the case as emerge from the pleadings as well as other material adduced on 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 lawful liability issued cheque bearing No.331732 dated 13.07.2020 amounting to Rs.1,25,000/- in favour of the complainant, however, the same 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 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/order dated 01.08.2023/ 25.08.2023, 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 the learned Additional Sessions Judge-II, Shimla, District Shimla, H.P., which also came to be dismissed vide judgment dated 08.04.2024 , 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, praying therein for his acquittal after setting aside the judgments of conviction recorded by the courts below.

5. During proceedings of the case, learned counsel representing the parties, on instructions of their respective clients, apprised this Court with regard to intention of the parties to settle the matter *inter se* them and



accordingly, this Court referred the matter to Mediation. It is heartening to note that with the sincere efforts put in by learned Mediator, parties have been able to resolve the dispute amicably *inter se* them. Order dated 16.06.2026 passed by learned Mediator, which is part of the mediation record, reveals that parties to the lis have settled their dispute for a sum of Rs.1,70,000/-. As per compromise, accused agreed to pay a sum of Rs.77,000/- to the complainant on or before 30.04.2026. Besides this, the complainant also gave No Objection Certificate for the release of sum of Rs.40,000/- lying deposited with the learned Additional Chief Judicial Magistrate, Theog. Learned counsel for the parties fairly state that sum of Rs. 77,000/-, as well as the sum of Rs.40,000/-, as detailed hereinabove, has already been released in favour of the complainant. Learned counsel for the accused further states that the remaining amount of Rs.53,000/- has already been paid to the complainant, which fact has been duly acknowledged by Mr. Jeevesh Sharma, learned counsel for the complainant. Learned counsel for the accused further states that on account of amicable settlement *inter se* parties, this Court may proceed to compound the offence, while exercising power under Section 147 of the Act.

6. Learned counsel representing the complainant, while fairly acknowledging the factum with regard to compromise, states that complainant shall have no objection in compounding the offence.

7. 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, 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.

8. 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 08.04.2024 & 01.08.2023 and sentence dated 25.08.2023, 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.

9. 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.5,000/- as litigation charges payable to the complainant within a period of six weeks from today, failing which, he shall render himself liable for penal consequences as well as contempt of court.

(Sandeep Sharma)
Judge

June 29, 2026
(sunil)