

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 709 of 2025

Date of Decision: 23.04.2026

M/s Dew Drops TradersPetitioner

Versus

M/s Shree Balaji Traders ... Respondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner: Mr. Anirudh Sharma, Advocate.

For the Respondent: Mr. Vipin Pandit and Mr. Parikshit Sharma, Advocates.

Sandeep Sharma, Judge(oral):

Instant Criminal Revision Petition filed under Section 438 read with Section 442 of Bhartiya Nyaya Sanhita, lays challenge to judgment dated 09.10.2025 passed by learned Additional Sessions Judge (1), Solan, District Solan, Himachal Pradesh, in Criminal Appeal No.162-S/10 of 2023, affirming the judgment of conviction dated 07.01.2023 and order of sentence dated 16.01.2023 passed by learned Additional Chief Judicial Magistrate, Kasauli, District Solan, Himachal Pradesh in Criminal Case No.447/3 of 2018, whereby learned trial Court, while holding the petitioner-accused (**hereinafter, 'accused'**) guilty of having committed offence punishable under S. 138 of the Negotiable Instruments Act, (for short 'Act') convicted and sentenced him to undergo simple imprisonment for a period of two

¹ Whether the reporters of the local papers may be allowed to see the judgment?

months and pay compensation to the tune of Rs.60,000/- to respondent -complainant (***hereinafter, 'complainant'***).

2. Precisely, the facts of the case, as emerge from the record are that the respondent-complainant instituted a complaint under Section 138 of the Act in the competent Court of law, alleging therein that cheque bearing No. 017308, dated 23.06.2018, amounting to Rs. 50,000/- drawn on IDBI Bank, Branch Bhuntar, District Kullu, Himachal Pradesh, having been issued by the petitioner-accused towards discharge of his lawful liability was dishonoured due to remarks "funds Insufficient". Since, despite having received legal notice, accused failed to make the payment good well within stipulated time, complainant was compelled to initiate proceedings under Section 138 of the Act in the competent Court of law, which subsequently, on the basis of evidence adduced on record by the respective parties, held accused guilty of having committed offence punishable under S. 138 of Act and accordingly convicted and sentenced him as per description given herein above.

3. Though, being aggrieved and dissatisfied with aforesaid judgment of conviction and order of sentence passed by learned trial Court, accused preferred an appeal in the Court of learned Additional Sessions Judge(1) Solan, District Solan, Himachal Pradesh, but same was dismissed vide judgment dated 09.10.2025. In the aforesaid background, accused has approached this court in the instant

proceedings, praying therein for his acquittal after setting aside judgments of conviction and order of sentence passed by learned trial Court as well as Appellate Court.

4. Before the case at hand could be heard and decided on its own merit, petitioner has entered into the compromise with the respondent/Complainant, whereby they have resolved to settle their dispute amicably inter se.

5. Today, during the proceedings of the case, learned counsel representing the petitioner stated that the petitioner has entered into compromise with the respondent-complainant, whereby they have resolved to settle their dispute amicably. He stated that sums of Rs. 48,000/- and Rs. 12,000/-, lying deposited with the learned First Appellate Court as well as trial Court, respectively, can be ordered to be released in favour of the respondent-complainant and thereafter this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused of charge framed against him under Section 138 of the Act.

6. Mr. Parikshit Sharma, learned counsel representing the respondent-complainant submits that respondent-complainant shall have no objection in compounding the offence in case, amount lying deposited with the learned First Appellate Court as well as trial Court is ordered to be released in his favour.

7. Though, no application under Section 147 of the Act has been filed by the petitioner for compounding the offence, despite sufficient opportunity granted for the purpose, however, this Court has sufficient power to compound the offence under Section 147 of the Act, especially when the complainant is ready and willing for the same, as has been fairly stated by the learned counsel for respondent- complainant.

8. Having taken note of the fact that entire amount of compensation has been paid to the respondent-complainant and respondent-complainant has no objection in compounding the offence, this Court sees no impediment in accepting the prayer made on behalf of the petitioner for compounding of 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.

9. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and order of sentence passed by learned trial Court as well as Appellate Court are set-aside and the petitioner-accused is acquitted

of the charge framed against him under Section 138 of the Act. Bail bonds, if any, are discharged. Interim order, if any, is vacated.

10. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of his own amount, petitioner-accused is directed to pay sum of Rs. 5,000/- as litigation charges to the respondent-complainant and deposit Rs. 5000/- with the H.P. State Legal Service Authority as compounding fee within a period of eight weeks, failing which, he shall render himself liable for penal consequences as well as contempt of the Court.

11. Learned First Appellate Court as well as trial Court are directed to release the amount lying deposited with them in favour of the respondent-complainant, by remitting the same in its saving bank account, details whereof shall be furnished by learned counsel for the respondent-complainant within a period of two weeks.

**(Sandeep Sharma),
Judge**

April 23, 2026
Manjit