



**CRM-30633-2024 in/and
CRR-1524-2017 (O&M)**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-30633-2024 in/and
CRR-1524-2017 (O&M)
Date of Decision : 25.03.2026**

Avtar Singh

....Petitioner

VERSUS

Gurnam Singh and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. P.S.Jammu, Advocate and
Mr. Gaurav, Advocate for the petitioner.

Mr. Anmol Sharma, Advocate for
Mr. Rakesh Kumar, Advocate, for respondent No.1

Mr. Sahil Chowdhary, AAG, Punjab.

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MANDEEP PANNU J. (Oral)

1. The petitioner has filed the instant revision petition for setting aside the impugned judgment of conviction and order of sentence dated 19.09.2016, passed by the learned Judicial Magistrate Ist Class, Kapurthala whereby he has been convicted and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay fine of Rs.5000/- and in default of fine to further undergo simple imprisonment of 20 days for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') as also the judgment dated 12.04.2017, passed by learned Addl. Sessions Judge, Kapurthala, vide which the appeal of the petitioner against the aforesaid judgment of conviction and order of sentence dated 19.09.2016 has been dismissed.



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2. The brief facts of the case are that the complainant is that accused had allegedly taken a loan of Rs.4 lac from the complainant for his domestic needs and in order to discharge his legal liability, the same allegedly issued a cheque bearing no.085952 dated 15.05.2013 amounting to Rs.4 lac in favor of the complainant, drawn at Capital Local Area Bank Ltd., Jalandhar Road, Kapurthala. On presentation of the aforesaid cheque for encashment, the same was returned as dishonored with memo dated 18.05.2013 with the reason "Funds Insufficient". Thereafter, the complainant also sent a legal notice dated 23.05.2013 despite which, the accused failed to make the payment. Hence, on the basis of what had allegedly transpired above, the complainant has been constrained to file the complaint.

3. The petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay fine of Rs.5000/- and in default of fine to further undergo simple imprisonment of 20 days for the offence punishable under Section 138 of the Act by the learned Judicial Magistrate, Ist Class, Kapurthala, vide order dated 19.09.2016. Feeling aggrieved, the present petitioner has filed the appeal, which was dismissed by the learned Additional Sessions Judge, Kapurthala, vide order dated 12.04.2017. Hence the present revision petition has been filed.

4. The petitioner has also filed an application i.e. CRM-30633-2024 under Section 147 of the Act read with Section 528 of BNSS/482 Cr.P.C, seeking permission from this Court to compound the offence and to acquit him of the charges under Section 138 of Negotiable Instruments Act.



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5. Learned counsel for the petitioner averred that during the pendency of the present revision petition, both the parties have compromised the matter before the Mediation Centre of this Court and in this regard complainant-respondent No.1 has filed his affidavit. Learned counsel further submits that the petitioner paid an amount of Rs.3,75,000/- as full and final settlement of the dispute. He further submits that the offence under Section 138 of the Negotiable Instruments Act is essentially a civil wrong given the colour of criminal offence and once the dispute has been amicably settled and the complainant has received a substantial amount in full and final settlement, the very foundation of the complaint ceases to exist. Learned counsel for the petitioner prays that both the aforesaid judgments passed by the Courts below be set aside and the petitioner be acquitted of the charge(s) levelled against her.

6. Learned counsel for respondent No.1 – complainant submits that the matter has been compromised before the Mediation Centre of this Court and he has placed on record his affidavit to that effect. Learned counsel further submits that the complainant/respondent No.1 has no objection, if the present application is allowed.

7. On the other hand, learned State counsel submits that this is a complaint case and he is not aware of any compromise effected between the parties.

8. Learned counsel for the petitioner relies upon the judgment in the case of '*Tilak Kataria vs. State of Haryana and another*', 2021 (3) RCR (Criminal) 404, wherein, after considering various judgments of the Hon'ble Apex Court, it



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has been held that when the complainant does not have any objection, the proceedings should come to an end.

9. The Hon'ble Supreme Court in '*A.T. Sivaperumal vs. Mohammed Hyath (D) by Lrs'* 2017 (2) RCR (Criminal) 453, decided on 27.03.2017, has held that once the settlement between the parties has been arrived at, the conviction can also be set aside and the litigation too. Similar view has been taken by a Coordinate Bench of this Court in the case of *Jagmohan Vs. Sandeep Aggarwal and another*, 2021(4) RCR (Criminal) 86.

10. Learned counsel for the petitioner and learned counsel for respondent No.2, are *ad-idem* that the matter stands compromised before the Mediation Centre of this Court and the petition may be allowed and permission may be granted to the parties to compound the offence under Section 138 of the Act in view of the law laid down by the Hon'ble Supreme Court in *Damodar S. Prabhu vs. Sayed Babalal H*, 2010 (2) RCR (Criminal) 851 and *Sanjabij Tari versus Kishore S.Borcar*, 2025 INSC 1158, the impugned judgments and order passed by the learned trial Court and the learned Appellate Court may be set aside and the petitioner be acquitted of the charge(s).

11. I have heard learned counsel for the parties and perused the record.

12. A perusal of the case file reveals that vide order dated 02.08.2024, the matter was sent to Mediation and Conciliation Centre of this Court to explore the chances of the compromise amongst the parties. In pursuance thereof, a report of the Mediator has been received to the effect that the parties have settled their dispute amicably.



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13. In the present case, the cheque(s) amount is Rs.4,00,000/-. In view of the law laid down in *Sanjabij Tari's case (supra)*, compounding of the present offence can be allowed, provided the petitioner-accused pays 7.5% of the cheque amount by way of costs. On calculation, 7.5% of the cheque amount comes to be Rs.30,000/-. As noticed above, the parties have settled the dispute by way of compromise. CRM-30633-2024 is allowed and this Court grants permission to compound the offence punishable under section 138 of the Act

14. In view of the above, the impugned judgment of conviction and order on quantum of sentence dated 19.09.2016 passed by the learned Judicial Magistrate Ist Class, Kapurthala and the judgment dated 12.04.2017 passed by learned Addl. Sessions Judge, Kapurthala, are set aside. The complaint under Section 138 of the Act stands dismissed and the petitioner stands acquitted of the charge(s), subject to her depositing the costs of Rs.30,000/- with the Punjab State Legal Services Authority, in view of the law laid down by the Hon'ble Supreme Court in *Sanjabij Tari's case (supra)*, within 15 days from the date of receipt of the certified copy of this order.

15. The present revision petition is allowed in the aforementioned terms.

16. Registry is directed to ensure the compliance of this order as to depositing of costs by the petitioner.

17. All pending miscellaneous application(s), if any, stands disposed of.

March 24, 2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No