IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No.789 of 2024
Date of Decision: 26.8.2026

Aman Bahadur

.....Petitioner

Versus

Pradeep Singh and Anr. **.....Respondents**

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

For the Petitioner: Mr. Rishabh Kumar Dogra, Proxy Counsel.

For the Respondents: Mr. Nikhil Chandel, Proxy Counsel, for respondent No.1.
Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for respondent No.2.

Sandeep Sharma, J. *(Oral)*

Instant criminal revision petition, under Section 438 read with Section 442 of the Bhartiya Nagarik Suraksha Sanhita, 2023, lays challenge to judgment dated 12.04.2024, passed by the learned Additional Sessions Judge, Sirmaur District at Nahan, Himachal Pradesh, in Criminal Appeal No. 13-N/10 of 2023, affirming judgment of conviction and order of sentence dated 16.12.2022, passed by the learned Chief Judicial Magistrate, Sirmaur District at Nahan, Himachal Pradesh, in Criminal Complaint No. 59/3 of 2021, whereby the learned trial Court while holding the petitioner-accused guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the

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'Act'), convicted and sentenced him to undergo simple imprisonment for a period of six months and pay compensation to the tune of Rs. 80,000/- to the complainant.

2. Precisely, the facts of the case, as emerge from the record are that respondent-complainant instituted 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. 60,000/-, but fact remains that aforesaid cheque on its presentation, was dishonoured on account of insufficient funds. Since petitioner-accused failed to make the payment good within the time stipulated in the legal notice, respondent/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 16.12.2022 held the petitioner-accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced him as per the description given herein above.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the court below, accused preferred an appeal in the court of learned first appellate court, which also came to be dismissed vide judgment dated 12.4.2024, as a consequence of which, judgment of

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conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present petitioner-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. Learned counsel for the petitioner-accused, states that dispute stands settled, sum of Rs. 80,000/- already stands paid to the respondent/complainant. He submits that in view of the above, this Court while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused.

6. While acknowledging the factum of compromise on the cheque amount, learned counsel appearing for the respondent-complainant, states that respondent/complainant has already received sum of Rs. 80,000/-, whereas amount lying deposited with the learned trial Court in the case at hand, can be released in favour of the petitioner. He further submits that since respondent-complainant was unnecessarily dragged into litigation for realization of his own money, this Court may also award some litigation cost.

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

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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 by the courts below.

8. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 12.4.2024 and 16.12.2022, 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. Since respondent-complainant was unnecessarily compelled to institute legal proceedings against the accused that too for realization of his own money, this court deems it fit to direct the accused to pay sum of Rs. 5,000/- as litigation cost, to the respondent-complainant, payable within six weeks. Ordered accordingly. Apart from above, petitioner shall also be liable to deposit sum of Rs.5,000/- as compounding fee with the Himachal Pradesh State Legal Services Authority, within aforesaid period, failing which, accused besides rendering himself liable for penal consequences would also invite contempt proceedings. Since respondent/complainant has received the entire

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amount of compensation, learned trial Court is directed to release the amount lying deposited with it in favour of the petitioner on filing appropriate application within one week, providing therein saving bank account details of the petitioner. The petition is disposed of along with pending applications, if any.

9. List for compliance on **5.10.2026**.

August 26, 2026 **(Sandeep Sharma),**
(manjit) **Judge**

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