

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &
HARYANA AT CHANDIGARH.**

CRM-24457-2015 in/&
CRR-975 of 2014 (O&M)
Date of decision: August 07, 2015

M/s GenX Fashion Hub & another ...Petitioner

Versus

M/s Verma The Fashion Point ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Nitin Thatai, Advocate, for the petitioner.
Mr. Dinesh K. Jangra, Advocate for the respondent.

Rajan Gupta, J.

CRM-24452-2015:

This is an application for placing on record affidavit of Parveen Kumar Verma, proprietor of the respondent in terms of para 6 of the settlement arrived at between the parties before Mediation and Conciliation Centre. Application is allowed as prayed for. Affidavit is taken on record.

CRR-975-2014:

This is a revision petition against the conviction of the accused-petitioner under Section 138 of the Negotiable Instruments Act (hereinafter referred to be as “the Act”). The petitioner has been sentenced to undergo simple imprisonment for six months and to pay a compensation of Rs.7,00,000/- to defray the amount of cheque and other

expenses undertaken by the complainant to prosecute him.

A complaint was filed by the complainant-respondent against the petitioner on the allegations that the petitioner issued a cheque bearing No.134705 dated 25.04.2010 out of his account in Axis Bank Ltd., Surya Towers, The Mall, Ludhiana in favour of the respondent. However, the said cheque was dishonoured with the remarks "Payment Stopped by the Drawer". A trial ensued. The petitioner was convicted by the court of Judicial Magistrate 1st Class, Gurgaon and conviction was upheld by the appellate court.

Vide order dated February 19, 2015, this case was referred to Mediation and Conciliation Centre of this court. The matter was settled before Mediation and Conciliation Centre and settlement was reduced into writing, according to which the petitioner had to pay Rs.5.00 lacs to the respondent as full and final settlement. Today, learned counsel for the respondent has put in appearance. He submits that Parveen Kumar Verma, proprietor of complainant-firm is present in court and is duly identified by him. Learned counsel has placed on record his affidavit, wherein it has been stated that he has received the entire amount of Rs.5.00 lacs from the petitioner and now he has no grudge against him and has no objection if the present petition is disposed of in favour of the petitioner.

In view of the fact that offence under Section 138 of the Act is compoundable under Section 147 of the Act, the statement made by the complainant would amount to withdrawal from prosecution as

envisaged by Section 321 Cr.P.C. In view of the judgment rendered by this court in *Ritesh Gupta v. State of Punjab and another, 2009 (3) R.C.R. (Criminal) 61*, the plea of the parties is accepted. The conviction and sentence imposed upon the petitioner for offence punishable under Section 138 of the Act is hereby set-aside and the petitioner is acquitted of the offence for which he was convicted and sentenced.

The revision petition is thus allowed in the aforesaid terms.

August 07, 2015
'Rajpal'

(RAJAN GUPTA)
JUDGE

Whether to be referred to reporter? Yes / No