



Settlement Between Parties Renders Conviction Under Section 138 Of Negotiable Instruments Act Untenable

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The offence under Section 138 of the Negotiable Instruments Act, 1881, being quasi-criminal in nature, primarily arises from a civil dispute concerning the dishonour of cheques. Where the parties subsequently resolve the dispute amicably through a lawful settlement, the very substratum of the criminal proceedings stands extinguished. In such circumstances, continuation of the conviction under Section 138 becomes legally unsustainable, as the object of the provision, i.e. ensuring the repayment and upholding the sanctity of commercial transactions, stands duly satisfied.

In a significant pronouncement, dated 11.08.2025 in *Gian Chand Garg versus Harpal Singh and Another*¹, the Hon'ble Supreme Court of India categorically held that once the Complainant has entered into a duly executed compromise deed and has unequivocally accepted the cheque amount towards full and final settlement of the claim, the very foundation of the criminal proceedings under Section 138 of the Negotiable Instruments Act, 1881, stands eroded. The Hon'ble Court observed that the object of Section 138 of the Negotiable Instruments Act, 1881 is primarily compensatory and restitutionary in nature, aimed at ensuring recovery of the dishonoured amount rather than inflicting punishment in a mechanical manner. Accordingly, where the Complainant, by his conscious and voluntary act, acknowledges receipt of the settled amount in discharge of the liability, the continuation of criminal prosecution becomes an abuse of process of law. The judgment reaffirms the principle that once the dispute is amicably resolved and satisfaction of the underlying debt is recorded, the penal consequences under the Section 138 cannot be invoked to secure any further advantage.

The factual matrix of the case arises out of a complaint instituted by Mr. Harpal Singh under the provisions of the Negotiable Instruments Act, 1881, against Mr. Gian Chand Garg. It was alleged that the Accused had availed a loan of Rs.5,00,000/- (Rupees Five Lakhs only) from the Complainant and, towards repayment of the said liability, issued a cheque which, upon presentation, was dishonoured with the endorsement "Funds Insufficient". Consequent thereto, a statutory demand notice was issued, and upon failure of the accused to comply with the same, a complaint under Section 138 of the NI Act was lodged before the competent Magistrate. After conclusion of the trial, the Learned Magistrate convicted the Accused-Appellant, sentencing him to undergo simple imprisonment for a period of 6 (six) months and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with a further default sentence of 15 (fifteen) days' simple imprisonment. The Appellate Court, i.e. the Learned Additional District Judge, upheld the conviction and sentence. The Revision Petition preferred before the Hon'ble High Court was also dismissed by the Impugned Order. Aggrieved thereby, the Appellant preferred the Appeal before the Hon'ble Supreme Court.

Subsequent to the dismissal of the Revision Petition, the parties amicably entered into a Compromise/ Settlement, dated 06.04.2025, wherein Mr. Harpal Singh expressly recorded his no-objection to the Appellant seeking modification of the Revisional Court's Order and pursuing an acquittal. Pursuant thereto, the Appellant moved an application in the disposed Revision, praying for alteration of the Order, dated 27.03.2025, by which his Revision Petition had earlier been dismissed. However, the Hon'ble High Court, vide Order, dated 09.04.2025, rejected the said Application, holding the same to be non-maintainable.

¹ SLP (Criminal) No. 8050/2025, decided on 11.08.2025



The learned Trial Court accepted the Will as genuine and consequently declared the appellant to be the rightful successor to the estate. However, in appeal, the Hon'ble High Court reversed the findings of the Trial Court, holding the Will to be surrounded by suspicious circumstances. The High Court specifically noted the complete absence of any mention or exclusion of the testator's wife in the purported Will as a material infirmity, thereby casting serious doubt on its authenticity and voluntariness.

The Hon'ble Supreme Court, while adjudicating upon the matter, referred to the Judgment in *M/s Meters and Instruments Private Limited and Another versus Kanchan Mehta*², in which it was categorically observed that an offence under Section 138 of the Negotiable Instruments Act, 1881, is predominantly in the nature of a civil wrong, the object being recovery of the cheque amount rather than retribution. The Hon'ble Court further noted that, by virtue of the Section 147 of the Negotiable Instruments Act, introduced through the 2002 amendment to the said Act, the offence has been expressly rendered compoundable, thereby recognising the primacy of the Settlement and Compromise between the parties in such matters. The relevant observation of the aforementioned judgment is as follows:

"This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions' cheques were issued merely as a device to defraud the creditors. Dishonor of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable."

The Hon'ble Court also recalled the observations in *P. Mohanraj and Others versus M/s Shah Brothers Ispat Private Limited*³, wherein the Hon'ble Court characterized an offence under Section 138 of the Negotiable Instruments Act, 1881, as a "civil sheep in a criminal wolf's clothing". By this metaphor, the Hon'ble Court underscored that the disputed arising under the Section 138 are essentially civil in nature, concerning private rights and obligations between the parties, but have been clothed with criminal sanction to enhance the efficacy and credibility of the negotiable instruments in commercial transactions.

Furthermore, the Hon'ble Court placed reliance upon the judgment in *M/s Gimpex Private Limited versus Manoj Goel*⁴, wherein the Hon'ble Court took into consideration the effect of Settlement arrived between the parties and observed that:

"38. When a complainant party enters into a compromise agreement with the accused, it may be for a multitude of reasons- Higher Compensation, faster recovery of money, uncertainty of trial and strength of complaint, among others. A complainant enters into a settlement with open eyes and undertakes the risk of the accused failing to honour the cheques issued pursuant to the settlement, based on certain benefits that the settlement agreement postulates. Once parties voluntarily entered into such an agreement and agree to abide by the consequences of non-compliance of the settlement agreement, they cannot be allowed to reverse the effects of the agreement by pursuing both the original complaint

² 2018 (1) SCC 560

³ (2021) 6 SCC 258

⁴ (2021) SCC OnLine SC 925



and the subsequent complaint arising from such non-compliance. The agreement shall subsume the original complaint....”

The Hon’ble Court also mentioned that in *B.V. Seshaiyah versus State of Telangana and Another*⁵, the Hon’ble Court held that when the parties voluntarily enter into a settlement and compound the offence, the underlying object is to avoid the rigors of prolonged litigation. The Hon’ble Court emphasized that such compounding is statutorily permissible and, once effected, cannot be negated or overridden by judicial intervention. It was reiterated that the courts are bound to respect the autonomy of the parties in resolving their disputes through lawful compromise, and cannot substitute their own will in place of the consensual settlement.

In light of the aforementioned precedents, the Hon’ble Court held that it stands well settled that though dishonour of a cheque attracts penal consequences, the legislature, through Section 147 of the Negotiable Instruments Act, 1881, has expressly rendered the offence compoundable, notwithstanding anything contained in the Code of Criminal Procedure, 1973. Accordingly, once the parties have voluntarily arrived at a settlement, the offence may be validly compounded at any stage of the proceedings, and the courts are duty-bound to give effect to such compromise.

The Hon’ble Court further noted that in the present matter, the Compromise Deed, dated 06.04.2025 and the Affidavit sworn by the Respondent No.1 on 16.04.2025, annexed to the Petition, unequivocally demonstrate that the complainant voluntarily entered into a lawful settlement with the Appellant. The said Compromise records receipt of consideration by way of two demand drafts, and three cheques. It is evident from the recitals that the settlement was executed without coercion and of the Complainant’s own volition, in full and final satisfaction of the defaulted liability. In such circumstances, once the Complainant has consciously acknowledged the settlement and accepted payment in discharge of the debt, the continuance of the proceedings under Section 138 of the NI Act, becomes unsustainable in law, and consequently, the concurrent conviction imposed by the courts below warrants interference and is liable to be set aside.

The Hon’ble Court allowed present appeal and thus, marked yet another reaffirmation of the settled legal position that the offence under Section 138 of the Negotiable Instruments Act, 1881, being quasi-criminal in nature, is primarily intended to secure the repayment of the dishonoured amount and restore commercial confidence in negotiable instruments. Once the complainant has accepted the amount in full and final settlement through a valid compromise, the very foundation of the prosecution ceases to exist, and the continuance of conviction would amount to a miscarriage of justice and an abuse of process of law.

By relying on a consistent line of precedents, including *Kanchan Mehta*, supra; *P. Mohanraj, Gimpex Pvt. Ltd.*, supra; and *B.V. Seshaiyah*, supra; the Hon’ble Supreme Court has reiterated that courts must give primacy to party autonomy and respect the voluntary settlements arrived at between disputing parties. The recognition of compounding at any stage of proceedings under Section 147 of the NI Act underscores the legislative intent to favour reconciliation over prolonged litigation. This decision thus strengthens the jurisprudence that the criminal process under Section 138 is not to be used as a tool for undue harassment once the underlying liability has been satisfied, and that the ultimate aim of the law is to balance penal consequences with fairness, equity, and the sanctity of consensual settlements.

⁵ (2023) SCC OnLine SC 96