

Whether the Judgment Should Be Reported in the Digest ? Vs. Dr. Pankaj Aggarwal

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Court : Punjab and Haryana

Decided On : Nov-26-2012

Appellant : Whether the Judgment Should Be Reported in the Digest ?

Respondent : Dr. Pankaj Aggarwal

Judgement :

CRM M-20781 o

1. IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH CRM M-20781 of 2012 (O&M) Date of Decision: November 26, 2012 Dr.

Mahesh Kumar ..Petitioner Versus Dr.

Pankaj Aggarwal ..Respondent CORAM: HON'BLE Mr.JUSTICE PARAMJEET SINGH 1 Whether Reporters of the local papers may be allowed to see the judgment ?.2) To be referred to the Reporters or No.?.3) Whether the judgment should be reported in the Digest ?.

Present: Mr.Tejinder Pal Singh, Advocate, for Mr.Kunal Dawar, Advocate, for the petitioner.

Mr.R.K.Sharma, Advocate, for the respondent.

Paramjeet Singh,J.

(Oral) Present petition has been filed under Section 482 Cr.p.C.for quashing criminal complaint No.240/2 of 02.08.2007 titled as Dr.

Pankaj Aggarwal versus Dr.

Mahesh Kumar.

under Section 138 of the Negotiable Instruments Act, 1881 pending in the Court of learned JMIC, Panchkula along with all subsequent proceedings arising therefrom including summoning order dated 02.08.2007 and order dated 20.04.2011 declaring CRM M-20781 o

2. the petitioner as proclaimed offender.

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

Learned counsel for the parties state that the dispute has been settled amicably.

Learned counsel for the respondent, on instructions from the respondent, states that the respondent has received the draft of Rs.25,000/- in full and final settlement of the claim in question and the respondent does not want to pursue his complaint pending in the Court of learned JMIC, Panchkula against the petitioner.

Learned counsel for the respondent has also handed over an affidavit dated 30.10.2012 of the respondent to the above effect, which is taken on record.

The Hon'ble Apex Court in the matter of Damodar S.

Prabhu versus Sayed Bablal H.

reported in 2010(2) R.C.R.(Criminal) 851, has held as under:- 15.

With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence.

It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not CRM M-20781 o

3. only results in the system being burdened but the complainant is also deprived of effective justice.

In view of this submission, we direct that the following guidelines be followed:-
THE GUIDELINES (i) In the circumstances, it is proposed as follows: (a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the FIRs or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before CRM M-20781 o

4. which compounding takes place.

For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority.

Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority.

Consequently, in view of affidavit dated 31.10.2012 and keeping in view the law laid down by the Hon'ble Apex Court in the matter of Damodar S.

Prabhu (supra).present petition is allowed.

Impugned criminal complaint No.240/2 of 02.08.2007 titled as Dr.

Pankaj Aggarwal versus Dr.

Mahesh Kumar.

under Section 138 of the Negotiable Instruments Act, 1881 pending in the Court of learned JMIC, Panchkula along with all subsequent proceedings arising therefrom is quashed, subject to deposit of 15% of the cheque amount i.e.Rs.3000/- with the State Legal Services Authority, Haryana within a period of one month, failing which the said amount shall be recoverable as land revenues and this order shall be treated as non-est qua quashing of the complaint and subsequent proceedings.

November 26, 2012 [Paramjeet Singh].vkd Judge

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