

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

CRIMINAL REVISION No. 1547 of 2016

BETWEEN:-

**RAM SINGH S/O LAL SINGH OCCUPATION:
AGRICULTURIST GARM KHEDA KASUN TEH
MAHIDPUR DIST. UJJAIN (MADHYA PRADESH)**

.....PETITIONER

(SHRI JITENDRA SHARMA, ADVOCATE)

AND

**NARENDRA SINGH S/O CHANDRA SINGH, AGED ABOUT
58 YEARS, BAHADURGANJ DIST. UJJAIN (MADHYA
PRADESH)**

.....RESPONDENT

(SHRI ASHISH GUPTA, ADVOCATE)

Reserved on : 07.02.2024

Pronounced on : 15.02.2024

*This criminal revision having been heard and reserved for orders,
coming on for pronouncement this day, the court passed the following :*

ORDER

Present revision has been filed against judgment dated 30.11.2016 passed by IXth Additional Sessions Judge, District Ujjain, in Criminal Appeal No.386/2016 whereby learned Sessions Court affirmed the order dated 27.08.2016, passed by Judicial Magistrate First Class, District-Ujjain in Criminal Case No.547/2013, wherein the applicant has been convicted under Section 138 of Negotiable Instruments Act, 1881 and sentenced him to undergo one year rigorous imprisonment and compensation of Rs.1,40,000/-.

2. The matter is involved cheque amount of Rs.1,26,330/- in the present matter.

3. Both parties have filed the compromise application before this Court.

4. Learned counsel for both the parties submitted that the dispute has been settled amicably between them and the respondent has submitted that he has no objection if petitioner is acquitted from the charge under Section 138 of the Negotiable Instruments Act, 1881.

5. Since the parties are entering into compromise at the stage of revision, therefore, law laid down by the Hon'ble Apex Court in the case of ***Damodar S. Prabhu Vs. Sayed Babalal H. reported in (2010) 5 SCC 663*** will be applicable in this case. Paragraph No.21 of the aforesaid judgment is reproduced as under:-

“21. 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 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:-

(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 first 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 Criminal Revision No.3198/2021 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.”

6. Further in paragraphs 24, 25 and 26 of the aforesaid judgment, learned Apex Court has held as under:

24. We are also conscious of the view that the judicial endorsement of the above quoted guidelines could be seen as an act of judicial law-making and therefore an intrusion into the legislative domain. It must be kept in mind that Section 147 of the Act does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under Section 320 of the CrPC cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving Section 138 of the Act.

25. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the Court is spent on the trial of these cases and the parties are not liable to pay any Court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. **The competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance.** Bona fide litigants should of course contest the proceedings to their logical end.

26. Even in the past, this Court has used its power to do complete justice under Article 142 of the Constitution to frame guidelines in relation to subject-matter where there was a legislative vacuum.

7. In view of the aforesaid significant observation and considering the fact that the petitioner is facing trial for more than 11 years and also the parties have amicably settled their dispute and have entered into compromise before

this Court, the cost amount is reduced to the extent of 3% of the cheque amount. Hence, the applicant is liable to pay 3% of the cheque amount i.e. Rs.4,200/- by way of cost to be deposited with the “State Legal Services Authority” Indore.

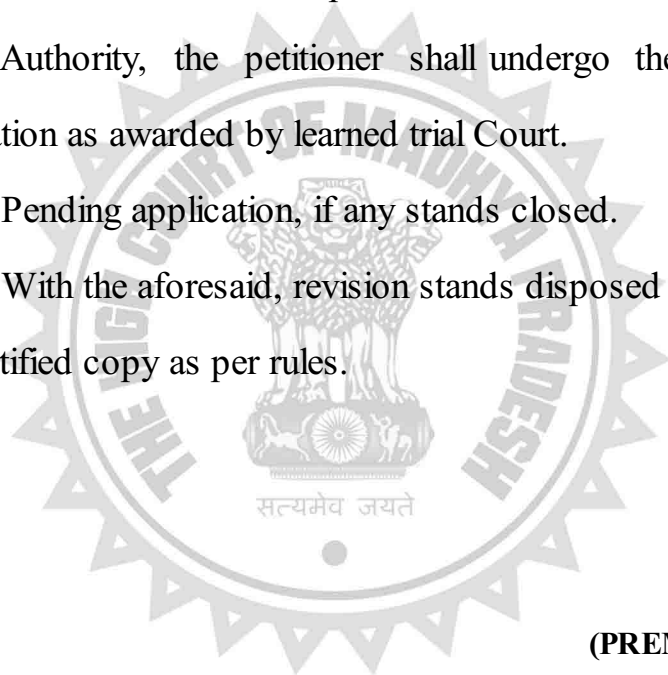
8. Subject to payment of cost at the rate of 3% of the cheque amount with the “State Legal Services Authority” Indore, within 15 days from the date of this order, the applicant be acquitted and released from the jail thereon, if he is in jail.

9. In case of failure to deposit of the said amount before the State Legal Services Authority, the petitioner shall undergo the original sentence and compensation as awarded by learned trial Court.

10. Pending application, if any stands closed.

11. With the aforesaid, revision stands disposed of.

Certified copy as per rules.



(PREM NARAYAN SINGH)
JUDGE