



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 1399/2024

Omprakash Sunda S/o Ghisha Ram, Aged About 36 Years, R/o
Near Guhana Nadi, Jodo Ka Bass Road, Village Nuwa, Tehsil
Deedwana Distt. Nagaur.

-----Petitioner

Versus

Pawan Kumar S/o Madan Lal, Aged About 33 Years, R/o Maidasar
Bass, Deedwana, Tehsil Deedwana, Distt. Nagaur.

-----Respondent

For Petitioner(s) : Mr. Bhola Ram Chahar
For Respondent(s) : Mr. Ashok Kumar for
Mr. Vikas Godara

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

03/01/2025

This revision petition has been filed by the petitioner against the judgment dated 23.07.2024 passed by the learned Additional Sessions Judge, Deedwana whereby the learned Judge dismissed the appeal of the petitioner and affirmed the judgment dated 09.06.2022 passed by the learned Additional Chief Judicial Magistrate, Deedwana whereby the petitioner was convicted for offence under Section 138 of N.I. Act and sentenced to undergo one year simple imprisonment along with fine in the sum of Rs.6,90,000/- and in default of payment of fine, to further undergo three months SI.

Counsel for the petitioner submits that during the pendency of the revision petition, the petitioner and complainant/respondent have entered into a compromise in the spirit of Lok Adalat and the



respondent has received all the amount from the petitioner and does not want to proceed in the matter. It is stated that since the parties have entered into compromise and amicably settled their dispute, therefore, the sentence of imprisonment awarded to the petitioner may be set aside. A copy of compromise is already available on record.

Counsel for the respondent concurs the fact of compromise arrived at between the parties.

Having considered the facts and circumstances of the case, since the parties have settled the dispute and complainant/respondent has accepted the sum towards full and final settlement of dispute on the satisfaction of the complainant and in the light of provisions of Section 147 of NI Act and in view of 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, the sentence awarded to the petitioner for offence under Section 138 NI Act is liable to be set aside. However, since the compromise has been arrived at after rejection of the appeal preferred by the petitioner, a cost of 15% of the cheque amount deserves to be imposed upon the petitioner in the light of the decision rendered by the Hon'ble Apex court in the case of Damodar S. Prabhu (Supra).

Accordingly, the conviction and sentence of imprisonment awarded to the petitioner for offence under Section 138 NI Act vide judgments dated 09.06.2022 and 23.07.2024 is hereby set aside on the basis of the aforesaid compromise subject to deposition of cost of 15% of the cheque amount. The cost shall be deposited by the petitioner with the Rajasthan State Legal



Services Authority, Jodhpur within a period of one month from today. In case the cost is not deposited by the petitioner within the stipulated period, the revision petition may be listed before this Court for passing appropriate orders.

The revision petition is disposed of accordingly.
Application for suspension of sentence is also decided.
A copy of this order be sent to the office of Rajasthan State

Legal Services Authority at Jodhpur.

(MANOJ KUMAR GARG),J

109-MS/-