



Devi Ram vs. State of HP and another

**Cr. MP No. 5046 of 2025 in
Cr. MP(M) No. 2619 of 2025**

Reserved on: 18.11.2025

03.12.2025

Present:

Mr H.S. Rangra, Advocate, for the applicant/
petitioner.

Mr Jitender Sharma, Additional Advocate General,
for the non-applicant/respondent/State.

Cr. MP No. 5046 of 2025

The applicant/accused has filed the present application under Section 147 of the Negotiable Instruments Act (NI Act) for compounding the matter. It has been asserted that the applicant/petitioner has deposited the entire amount of compensation as awarded by the learned Trial Court and compounded the matter with respondent No.2. The applicant was interested in compounding the matter from the very beginning, but could not settle it earlier. The composition of the offence will not cause any prejudice to the non-applicant. The applicant is under judicial custody and had to arrange the amount by taking a loan from his relatives. He is not in a position to deposit the composition fee as directed by the Hon'ble Supreme Court. Hence the application.

2. Mr H.S. Rangra, learned counsel for the applicant/petitioner, submitted that the applicant has deposited the whole compensation amount and the matter should be allowed to be compounded. The applicant is unable

to pay the compounding fee. Hence, he prayed that the present application be allowed and the applicant be exempted from depositing the composition fee.

3. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

4. It was laid down by the Hon'ble Supreme Court in *JIK Industries Ltd. v. Amarlal V. Jumani*, (2012) 3 SCC 255; (2012) 2 SCC (Civ) 82; (2012) 2 SCC (Cri) 125; 2012 SCC OnLine SC 104 that the offence punishable under section 138 of the NI Act cannot be compounded without the consent of the complainant. It was observed:

“82. A perusal of Section 320 makes it clear that the provisions contained in Section 320 and the various sub-sections are a code by itself relating to the compounding of offences. It provides for the various parameters, procedures and guidelines in the matter of compounding. If this Court upholds the contention of the appellant that as a result of the incorporation of Section 147 in the NI Act, the entire gamut of procedure of Section 320 of the Code is made inapplicable to the compounding of an offence under the NI Act, in that case, the compounding of an offence under the NI Act will be left totally unguided or uncontrolled. Such an interpretation, apart from being an absurd or unreasonable one, will also be contrary to the provisions of Section 4(2) of the Code, which has been discussed above. There is no other statutory procedure for compounding of an offence under the NI Act. Therefore, Section 147 of the NI Act must be reasonably construed to mean that as a result of the said section the offences under the NI Act are made compoundable, *but the main principle of such compounding, namely, the consent of the person aggrieved or the person injured or the complainant*

cannot be wished away nor can the same be substituted by virtue of Section 147 of the NI Act.” (emphasis supplied)

5. This judgment was considered in *Raj Reddy Kallem v. State of Haryana* (2024) 8 SCC 588, and it was held that where both sides agree to compound the offence, there can be no difficulty in compounding the offence, however, if the complainant does not consent to the compromise, the Court cannot compel him to give consent even if he has been adequately compensated. It was observed: -

“21. All the same, in this particular case, even though the complainant has been duly compensated by the accused, the complainant does not agree to the compounding of the offence, and the courts cannot compel the complainant to give “consent” for compounding of the matter. It is also true that mere repayment of the amount cannot mean that the appellant is absolved from the criminal liabilities under Section 138 of the NI Act.”

6. It was held in *A.S. Pharma (P) Ltd. v. Nayati Medical (P) Ltd.*, 2024 SCC OnLine SC 2539, that the Court could not quash the complaint under Section 138 of the NI Act in the exercise of its inherent jurisdiction without the consent of the complainant based on the fact that the complainant has been adequately compensated. It was observed: -

“15. In the contextual situation, it is relevant to refer to a recent decision of this Court in *Raj Reddy Kallem v. The State of Haryana* [2024 INSC 347]. The said decision would reveal that this Court took note of earlier decisions of this Court in *JIK Industries Ltd. case* (supra) as also in the decision in *Meters and Instruments Private Ltd. v. Kanchan Mehta* [(2018) 1 SCC 560] and in unambiguous terms held that for

compounding the offence under Section 138, N.I. Act, consent of the complainant is required. In *Kanchan Mehta's case* (supra), even after referring to the decision in *JIK Industries Ltd. Case* (supra), this Court held that even in the absence of 'consent', the Court could close criminal proceedings against an accused in a case under Section 138, N.I. Act, if the accused had compensated the complainant. It was held therein thus:—

18.3. Though compounding requires the consent of both parties, even in the absence of such consent, the court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can, in its discretion, close the proceedings and discharge the accused.

16. But then, it is to be noted that later, a five-judge Constitution Bench in *Expeditious Trial of Cases Under Section 138, N.I. Act, 1881, In re*, (2021) 16 SCC 116 held that observation in *Kanchan Mehta's* decision giving discretion to the trial Court "to close the proceedings and discharge the accused", by reading Section 258, Cr. P.C., which confers the power to stop proceedings in certain cases, is 'not a good law'. In *Raj Reddy Kallem's case* (supra), after referring to the above positions, this Court further observed that even in *Kanchan Mehta's case* (supra), nowhere was it contemplated that 'compounding' could be done without the 'consent' of the parties. It is worthwhile to note at this juncture that in *Raj Reddy Kallem's case*, this Court drew a nice distinction between 'quashing of a case' and 'compounding an offence'. To drive that point home, this Court referred to the decision in the *JIK Industries Ltd. case* (supra), where this Court distinguished the quashing of a case from compounding as hereunder: —

"Quashing of a case is different from compounding. In quashing, the Court applies it, but in compounding, it is primarily based on the consent of the injured party. Therefore, the two cannot be equated."

17. It is in the aforesaid circumstances that we hold that the question whether the offence under Section 138, N.I. Act could be compounded by invoking the power under Section 147, N.I. Act, without the consent of the

complainant concerned, is no longer *res integra*. In short, the position is that an offence under Section 138, N.I. Act could be compounded under Section 147 thereof, only with the consent of the complainant concerned. In that view of the matter, the impugned judgment of the High Court, wherein, despite the absence of the consent of the appellant-complainant, compounded the offence under Section 138, N.I. Act, on the ground that the appellant was equitably compensated, could not be sustained.

18. In the context of the issues involved, another aspect of the matter also requires consideration. The decision in *Raj Reddy Kallem's case* (supra) also stands on a similar footing since the complainant therein was duly compensated by the accused, but the complainant did not agree to compound the offence. After observing that, the Courts could not compel the complainant to give consent for compounding the offence under Section 138, N.I. Act, this Court in *Raj Reddy Kallem's case* (supra) took note of the peculiar factual situation obtained and invoked the power under Section 142 of the Constitution of India to quash the proceeding pending against the appellant-accused under Section 138, N.I. Act. True that in *Raj Reddy Kallem's case*, it was despite the non-consent of the complainant-respondent that the proceedings were quashed against the appellant therein, *inter alia*, taking note of the fact that the accused therein had compensated the complainant and furthermore deposited the additional amount, as has been ordered by this Court. *We have no doubt in holding that merely because taking into account such aspects and circumstances, this Court 'quashed' the proceedings by invocation of the power under Article 142 of the Constitution of India, cannot be a reason for 'compounding' an offence under Section 138, N.I. Act, invoking the power under Section 482, Cr. P.C. and the power under Section 147, N.I. Act, in the absence of consent of the complainant concerned, in view of the decision referred to hereinbefore. In this context, this is to be noted that the fact that this Court quashed the proceedings under Section 138, N.I. Act, invoking the power under Article 142 of the Constitution of India, can be no reason at all for High Courts to pass an order quashing a proceeding under Section 138, N.I. Act, on similar lines as the power under Article 142 of the Constitution of India is available only to the Supreme*

Court of India. In this context, it is relevant to refer to the three-judge Bench of this Court in *State of Punjab v. Surinder Kumar* [(1992) 1 SCC 489], this Court in paragraphs 6 to 8 therein held thus: —

6. A decision is available as a precedent only if it decides a question of law. The respondents are, therefore, not entitled to rely upon an order of this Court which directs a temporary employee to be regularised in his service without assigning reasons. It has to be presumed that, for special grounds which must have been available to the temporary employees in those cases, they were entitled to the relief granted. Merely because grounds are not mentioned in a judgment of this Court, it cannot be understood to have been passed without an adequate legal basis therefor. On the question of the requirement to assign reasons for an order, a distinction has to be kept in mind between a court whose judgment is not subject to further appeal and other courts. One of the main reasons for disclosing and discussing the grounds in support of a judgment is to enable a higher court to examine the same in case of a challenge. It is, of course, desirable to assign reasons for every order or judgment, but the requirement is not imperative in the case of this Court. It is, therefore, futile to suggest that if this Court has issued an order which apparently seems to be similar to the impugned order, the High Court can also do so. There is still another reason why the High Court cannot be equated with this Court. The Constitution has, by Article 142, empowered the Supreme Court to make such orders as may be necessary “for doing complete justice in any case or matter pending before it”, which authority the High Court does not enjoy. The jurisdiction of the High Court, while dealing with a writ petition, is circumscribed by the limitations discussed and declared by the judicial decisions, and it cannot transgress the limits on the basis of whims or a subjective sense of justice varying from Judge to Judge.

7. It is true that the High Court is entitled to exercise its judicial discretion in deciding writ petitions or civil revision applications, but this discretion has to be confined to declining to

entertain petitions and refusing to grant relief, as asked for by petitioners, on adequate considerations; and it does not permit the High Court to grant relief on such a consideration alone.

8. We, therefore, reject the argument addressed on behalf of the respondents that the High Court was entitled to pass any order which it thought fit in the interest of justice. Accordingly, we set aside the impugned order and allow the appeal, but in the circumstances without costs.

19. The upshot of the discussion is that the High Court had clearly fallen into error in invoking the power under Section 482, Cr. P.C., as also the power under Section 147, N.I. Act, to compound the offence under Section 138 of the N.I. Act *qua* the respondent-accused. Hence, the impugned judgment to the extent it compounded the offence under Section 138, N.I. Act invoking the inherent power under Section 482, Cr. P.C. and the power under Section 147, N.I. Act stands quashed and set aside.” (Emphasis supplied).

7. Therefore, in view of the binding precedent of the Hon’ble Supreme Court, it is impermissible to direct the settlement of the matter without the consent of the complainant. Further, the accused has deposited the compensation awarded by the learned Trial Court, which is insufficient because the complainant was dragged to the Court of Sessions and thereafter to this Court. He also lost interest on the money which he would have earned had the compensation been deposited immediately after the order passed by the learned Trial Court. It was held by the Hon’ble Supreme Court in *JIK Industries Ltd.*(supra) that the matter can be compromised if the complainant is adequately compensated; however, the complainant has not been

adequately compensated in the present case, and the offence cannot be compounded in the present case.

8. In view of the above, the prayer made on behalf of the applicant to settle the matter is rejected.

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List the matter for consideration after a week.

(Rakesh Kainthla)
Judge

3rd December, 2025
(Chander)

High Court