

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 77 of 2026

Date of Decision: 01.04.2026

Dola RamPetitioner

Versus

Smt. Harsha ... Respondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner: Mr. Anish Banshtu, Advocate.

For the Respondent: Mr. Divya Raj Thakur, Advocate.

Sandeep Sharma, Judge(oral):

Instant Criminal Revision Petition filed under Section 438 read with Section 442 of Bharatiya Nagarik Suraksha Sanhita, lays challenge to judgment dated 01.01.2026 passed by learned Additional Sessions Judge, Rohru, District Shimla, Himachal Pradesh, in Criminal Appeal No.19-R/10 of 2025(CNR No. HPSH 01000 310 2025),affirming the judgment of conviction and order of sentence dated 17.03.2025 passed by learned Additional Chief Judicial Magistrate, Court No.1, Rohru, District Shimla, Himachal Pradesh in Criminal Case No.173-3 of 2022, whereby learned trial Court, while holding the petitioner-accused (*hereinafter, 'accused'*) guilty of having committed offence punishable under S. 138 of the Negotiable Instruments Act, (for short 'Act') convicted and sentenced him to undergo simple imprisonment for a period of eight months and

¹Whether the reporters of the local papers may be allowed to see the judgment?

pay compensation to the tune of Rs.1,85,900/- to the respondent-complainant (*hereinafter, 'complainant'*).

2. Precisely, the facts of the case, as emerge from the record are that the respondent-complainant instituted a complaint under Section 138 of the Act in the competent Court of law, alleging therein that cheque bearing No.416835, dated 10.02.2022, amounting to Rs. 30,000/-, cheque No. 416836, dated 10.02.2022, amounting to Rs. 38,500/-, cheque No. 416837, dated 10.02.2022, amounting to Rs. 27,400/-, cheque No. 507819, dated 10.02.2022, amounting to Rs. 30,000/-, cheque No. 507820, dated 10.02.2022, amounting to Rs. 30,000/- and cheque No. 507821, dated 10.02.2022, amounting to Rs. 30,000/-, drawn at Canara Bank, Rampur Bushahr, having been issued by the petitioner-accused towards discharge of his lawful liability were dishonoured for the reasons "drawers signature differs kindly contact drawer/drawee bank and please visit again". Since, despite having received legal notice, accused failed to make the payment good well within stipulated time, complainant was compelled to initiate proceedings under Section 138 of the Act in the competent Court of law, which subsequently on the basis of evidence adduced on record by the respective parties, held the accused guilty of having committed offence punishable under S. 138 of Act and accordingly convicted and sentenced him as per description given herein above.

3. Though, being aggrieved and dissatisfied with aforesaid judgment of conviction and order of sentence passed by learned trial Court, accused preferred an appeal in the Court of learned Additional Sessions Judge, Rohru District Shimla, H.P, but same was dismissed vide judgment dated 01.01.2026. In the aforesaid background, petitioner-accused has approached this court in the instant proceedings, praying therein for his acquittal after setting aside judgments of conviction and order of sentence passed by learned trial Court as well as Appellate Court.

4. Vide order dated 02.02.2026, this Court suspended the substantive sentence imposed upon the accused by learned trial Court, subject to the petitioner-accused depositing 30% of the compensation amount and furnishing bail bonds in the sum of Rs. 50,000/-, with one surety of the like amount to the satisfaction of learned trial Court. Aforesaid order has not been complied with.

5. Before the case at hand could be heard and decided on its own merit, petitioner has entered into the compromise with the respondent/Complainant, whereby they have resolved to settle their dispute amicably *interse* them.

6. Today, during the proceedings of the case, learned counsel representing the petitioner stated that the petitioner has entered into the compromise with the respondent-complainant, whereby they have resolved to settle their dispute amicably. He

stated that sum of Rs. 1,45,900/- has been already paid to the respondent-complainant, whereas remaining amount lying deposited with the learned trial Court can be ordered to be released in favour of the respondent-complainant and thereafter, this Court, while exercising power under Section 147 of the Act, may proceed to compound the offence and acquit the accused of charge framed against him under Section 138 of the Act.

7. Mr. Divya Raj Thakur, learned counsel representing the respondent-complainant submitted that respondent-complainant shall have no objection in compounding the offence in case, amount lying deposited with the learned trial Court is ordered to be released in her favour.

8. Though, no application under Section 147 of the Act has been filed by the petitioner for compounding the offence, however, this Court has sufficient power to compound the offence under Section 147 of the Act, especially when the complainant is ready and willing for the same, as has been fairly stated by the learned counsel for respondent- complainant.

9. Having taken note of the fact that entire amount of compensation has been agreed to be paid to the respondent-complainant and respondent-complainant has no objection in compounding the offence, this Court sees no impediment in accepting the prayer made on behalf of the petitioner for compounding of

offence, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex Court *in Damodar S. Prabhu V. Sayed Babalal H. (2010) 5 SCC 663*, wherein it has been categorically held that court, while exercising power under Section 147 of the Act, can proceed to compound the offence even after recording of conviction.

10. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and order of sentence passed by learned trial Court as well as Appellate Court are set-aside and the petitioner-accused is acquitted of the charge framed against him under Section 138 of the Act. Bail bonds, if any, are discharged. Interim order, if any, is vacated.

11. Since complainant was compelled to engage in unwarranted litigation with the accused for realization of his own amount, petitioner-accused is directed to pay sum of Rs. 5000/- as litigation charges to the respondent-complainant and deposit Rs. 5000/- with the H.P. State Legal Service Authority as compounding fee within a period of eight weeks, failing which, he shall render himself liable for penal consequences as well as contempt of the Court.

12. Learned trial Court is directed to release the amount lying deposited with it in favour of the respondent-complainant, by remitting the same in her saving bank account, details whereof shall be

furnished by learned counsel for the respondent-complainant within a period of one week.

**(Sandeep Sharma),
Judge**

April 01, 2026
(shankar)