

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. Revision No.169 of 2025**

**Date of Decision: 11.03.2026**

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**Sh. Krishan Singh**

**.....Petitioner**

**Versus**

**M/s Mahindra and Mahindra Finance Service Ltd.**

**.....Respondents**

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**Coram**

**Hon'ble Mr. Justice Sandeep Sharma, Judge.**

**Whether approved for reporting?**

**For the Petitioner:** Mr. Prikshit Rathour, Advocate.

**For the Respondents:** Ms. Seema Kaushal Guleria, Advocate.

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**Sandeep Sharma, J. (Oral)**

Instant criminal revision petition filed under Section 438 of BNSS, 2023, lays challenge to judgment dated 16.12.2024, passed by the learned Sessions Judge (Forest), Shimla, Himachal Pradesh, in Criminal Appeal No.267 of 2022, titled *Krishan Singh Vs. M/s Mahindra & Mahindra Financial Services Ltd.*, affirming judgment of conviction and order of sentence dated 03.11.2022/05.11.2022, passed by the learned Judicial Magistrate First Class, Court No.6, Shimla, District Shimla, Himachal Pradesh, in criminal complaint No.45-3 of 2017, whereby the learned trial Court while holding the petitioner-accused (hereinafter, 'accused') guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act (in short the "Act"), convicted and sentenced him to

undergo simple imprisonment for a period of one month and pay compensation to the tune of Rs.1,10,000/- to the complainant.

2. Precisely, the facts of the case, as emerge from the record are that respondent-complainant (hereinafter, '*complainant*') instituted a complaint under Section 138 of the Act, in the Court of learned Judicial Magistrate First Class, Court No.6, Shimla, District Shimla, Himachal Pradesh, alleging therein that accused with a view to discharge his liability issued Cheque for a sum of Rs.88,745/-, but fact remains that aforesaid Cheque on its presentation, was dishonoured. Since petitioner-accused failed to make the payment good within the time stipulated in the legal notice, respondent/complainant was compelled to initiate proceedings before the competent Court of law under Section 138 of the Act.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 03.11.2022/05.11.2022, held the petitioner-accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced him, as per the description given hereinabove.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the Court below, accused preferred an appeal in the Court of learned Sessions Judge (Forest), Shimla, Himachal Pradesh, which also came to be dismissed vide judgment dated 16.12.2024, as a

consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present petitioner-accused has approached this Court by way of instant proceedings, seeking therein his acquittal after setting aside the judgments of conviction recorded by the Courts below.

5. Before case at hand could be heard and decided on its own merits, parties have entered into compromise, whereby petitioner/accused has agreed to pay the amount in question to the respondent/complainant.

6. Today, during the proceedings of the case, learned counsel representing the petitioner/accused apprised this Court that petitioner/accused has deposited entire amount of compensation awarded by Court below with the respondent-Bank, which fact has been duly acknowledged by learned counsel representing the respondent/complainant. Learned counsel representing the petitioner/accused states that since petitioner has paid the entire amount in question to the respondent/complainant, this Court while exercising power under Section 147 of the Act may proceed to compound the offence.

7. Ms. Seema Kaushal Guleria, Advocate, representing the respondent/Bank, fairly acknowledges factum of compromise arrived *inter se* parties. She states that since respondent/complainant has received

entire amount in question, she has no objection in compounding the offence.

8. Having taken note of the fact that parties have compromised the matter, whereby petitioner/accused has paid entire amount in question, coupled with the fact that 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.

9. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 16.12.2024 and 03.11.2022/05.11.2022, passed by the Courts below are quashed and set aside and the petitioner-accused is acquitted of the charge framed against him under Section 138 of the Act. Interim order, if any, is vacated. Bail bonds, if any, are discharged. Accordingly, the petition is disposed of along with pending applications, if any.

10. Since respondent/complainant was compelled to engage in unwarranted litigation with the petitioner/accused for realization of its own money, petitioner-accused is directed to deposit 5% of the Cheque amount with the H.P. State Legal Service Authority as compounding fee, within a period of four weeks, failing which, petitioner/accused shall render himself for penal consequences as well as Contempt of Court.

**(Sandeep Sharma),  
Judge**

**March 11, 2026**  
*(Rajeev Raturi)*