



Criminal Case No. 26353/2020

:: ORDER BELOW EXH-1:

1. Today, despite repeated call-outs, the complainant remains absent before the Court until 5:30 P.M. and no report regarding the same on record. This case is filed under Section 138 of the Negotiable Instruments Act.
2. Perusal of the record and proceedings reveals that this complaint was instituted in the year 2020. Since then, the matter is pending at the same stage i.e. for appearance of the accused. In spite of ample time and opportunity having been granted to the complainant to pursue this Targeted-Old matter, no concrete steps have been taken.
3. Importantly, a careful scrutiny of the record indicates that over the last six years, the authorized representative appearing on behalf of the complainant company has changed multiple times. However, no formal application to substitute the complainant or to bring the new authorized representative on record has been preferred by the company. Furthermore, the individual who has been appearing or mentioning the matter for the last few months has not been formally brought on record. Consequently, this individual holds no established locus standi in the present proceedings. This conduct reflects a sheer lack of diligence and procedural compliance on the part of the complainant company.

4. In this case, the complainant is none-other than a financial institute. It is also required to be noted that financial institutions are the biggest stake-holder in cases filed under Section 138 of N.I. Act. When there is call by the Court to the financial institutions to proceed with matters, it is the prime duty of the financial institutions to come forward and to co-operate Court to dispose of the case as early as possible. This very conduct of the complainant side clearly demonstrates that the complainant and financial institutions are not ready and willing to proceed with the matter when needed.

5. This Court has repeatedly gone through many matters in which financial institutions do not co-operate Court. The Court is not bound to wait for the financial institutions till they come before the Court at their leisure and pleasure.

6. This Court can profitably refer herein judgement of the Hon'ble Gujarat High Court delivered in the case of **Patel Rajendrakumar Ambalal Vs. State of Gujarat reported as 2018 Supreme (Guj.)358.** In this judgement Hon'ble Gujarat High Court was pleased to observe thus with regard to pendency of cases filed under section-138 of N.I.Act and timely presence of the parties to the case:

“4.5. The pendency of the matters under Section 138 of the NI act and its elongated trials are the serious concerns of the Courts. Therefore, all concerned are expected to cooperate by remaining present without of loss of time.”

Law Courts never tolerate an indolent litigant since delay defeats equity - the Latin maxim *vigilantibus et non dormientibus jura subveniunt* (the law assists those who are vigilant and not those who are indolent).

7. Furthermore, as observed by the Hon'ble Bombay High Court delivered in case of **Ramzan Khan Vs. Khadi Tours reported as 2019(5) Mh.L.J.(Cri.) 20**, it is *onerous duty to prosecute the same diligently. The applicant cannot be dormant for years together. Unnecessary filing of complaints where no subsequent steps are taken unnecessarily burdens the courts.*

8. The Hon'ble Supreme Court in case of **S. Rama Krishna Reddy Vs. S. Rami Reddy reported in AIR 2008 SC 2066** firmly held that “**Complainant cannot allow a case to remain pending for an indefinite period.**” Further Hon'ble Gujarat High Court has adopted the same view in judgement passed in **Criminal appeal no. 2405 of 2009 between Bhavani Textiles Mills Vs. State of Gujarat dated 18/01/2010.**

9. The Hon'ble Gujarat High Court in a judgment reported in **ACR 2011 (II) 268 (GUJ) KANUBHAI ISHVARBHAI PATEL VS. BHARATBHAI JASHBHAI PATEL** has upheld the order of dismissal of the complaints due to the negligence of the complainant. Hon'ble High Court has held in para 4 that;

"4. From the papers, it also appears that the learned counsel for the appellant-complainant had

never bothered to pray before the learned Trial Court for nonattendance of the respondent-accused. I have perused the said provision also. During the six years, the complainant has never bothered to appear before the learned Trial Court and never bothered to proceed with the matter. *It appears that due to sole negligence on the part of the complainant, complaint of the complainant was dismissed by the learned Trial Court. I have not found any substance in present appeal."*

10. Looking to above-mentioned facts and circumstances of the case, I am of the opinion that the complainant is no more interested in proceedings of the case. Consequently, following order is passed.

:: ORDER ::

The Present Complaint is hereby ordered to dismiss under Section 256 of the Criminal Procedure Code for want of prosecution on the complainant side.

Order signed & pronounced in open Court today.

Date : 13.04.2026 (Bhagvandas Ishvarlal Tarani)

**Ahmedabad. 25th Additional Chief Judicial Magistrate,
Ahmedabad.**

Judge Code :- GJ-01191