

Order Below ex-1

1. The present complaint has been filed by the Complainant under Section 138 of the Negotiable Instruments Act, 1881, against the Accused for the dishonor of Cheque No. 740611, dated 1st February 2022, for an amount of ₹1,89,900/- (Rupees One Lakh Eighty-Nine Thousand Nine Hundred Only).
2. Record shows that the Accused entered his appearance on 1st September 2022 and his plea was recorded. Thereafter, the Complainant filed his affidavit in evidence at Exhibit-4 . The matter was subsequently fixed for the cross-examination of the Complainant.
3. Perusal of the record reveals that the Complainant was partly cross-examined by the learned counsel for the Accused. Thereafter, the matter was listed for **further cross-examination** of the Complainant.
4. On the last three consecutive dates of hearing, i.e., 25th February 2026, 13th March 2026, and 29th April 2026, the Complainant failed to appear before this Court to submit himself for further cross-examination. On every such date, adjournment applications were preferred by his counsel, which were reluctantly allowed in the interest of justice.
5. Today, the matter is specifically listed for the further cross-examination of the Complainant as a last and final opportunity. The Accused and his counsel are present in court and ready to proceed. However, despite repeated calls since the morning session, the Complainant has failed to appear. His learned counsel has once again moved an application for adjournment on vague and unsubstantiated grounds.
6. Since the matter is of the year 2022 and pertains to a summary trial under the NI Act, it cannot be dragged on indefinitely. Ample opportunities have already been granted to the Complainant. It is evident that the Complainant is deliberately avoiding the witness box to evade further cross-examination, thereby causing unnecessary harassment to the Accused.

7. In view of the persistent absence and non-cooperation of the Complainant, the adjournment application filed today by the Complainant's counsel stands **rejected**. Consequently, the opportunity for the Complainant to lead further evidence/submit to further cross-examination stands **closed**.
8. It is a settled principle of law that where a witness fails to submit to cross-examination without a lawful excuse, their incomplete and untested deposition cannot be safely read into evidence. It carries no legal weight and must be excluded from evaluation. As a consequence of the eschewal of the Complainant's partial statement, there remains zero admissible evidence on record to implicate the Accused. Under these circumstances, recording the Statement of the Accused under Section 313 of the CrPC (now Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is redundant and is hereby dispensed with.
9. Therefore, for want of prosecution and lack of admissible evidence, the present complaint is hereby **DISMISSED**. Exercising powers under Section 256 of the Code of Criminal Procedure, 1973 (now Section 289 of the Bharatiya Nagarik Suraksha Sanhita, 2023), the Accused stands **ACQUITTED** of the offense punishable under Section 138 of the Negotiable Instruments Act, 1881.
10. The bail bonds and surety bonds of the Accused stand discharged.

Date:- 18/05/2026

Meghraj

(Mrs. Jinal Vishal Adhiya)

Additional Civil Judge,

Meghraj

GJ01408