

IN THE COURT OF SESSIONS JUDGE, JAMNAGAR.

:-: ORDER BELOW EXHIBIT -1 :-:

1. By way of present criminal appeal, appellant (original accused) has challenged the impugned judgment and order of conviction dated 01/09/2022 passed by the Court of learned 8th Additional Chief Judicial Magistrate, Jamnagar in Criminal Case No.2989 of 2012, by which appellant/accused was convicted for offense punishable under section 138 of The Negotiable Instrument Act, 1881.

2. It is required to note that appellant/accused and Opponent No.1/complainant has passed an affidavit/cum-pursis at Mark 3/2 by stating that dispute has been amicably settled and accused has paid amount towards full and final settlement and requested to record compromise and to set-aside impugned judgment and order of conviction.

It is pertinent to note that in said pursis of settlement, accused has to deposit **7.5 %** of cheque amount, that is, Rs.15,000/- before District Legal Services Authority, Jamnagar being cost as per law laid down by the Hon'ble Apex court in case between **Sanjabij Tari Vs. Kishore S. Borcar reported in 2025(0) AIJEL-SC 75934**. However, appellant/accused failed to deposit such cost as he was remained absent since long.

3. On perusal of record, matter was adjourned to i.e., 01/01/2026, 30/01/2026, 23/02/2026, 13/04/2026, 27/05/2026, 08/06/2026, 16/06/2026, 16/06/2026 to afford the appellant an opportunity to comply with the directions of Hon'ble Apex Court issued in case of **Sanjabij Tari Vs. Kishore S. Borcar (Supra)**.

However, the appellant/accused has failed to comply with the said order to date. Consequently, the matter is taken up today for the passing of appropriate order.

Thus, the appellant herein failed to remain present and depositing the cost amount of Rs.15,000/- before District Legal Services Authority, Jamnagar as directed him within stipulated time.

4. The Hon'ble Supreme Court in *Sanjabij Tari (supra)* has laid down stricter guidelines for compounding offenses under Section 138 of the Negotiable Instruments Act. If the accused fails to deposit the mandated cost, then Court may allowing the probation, and dispose the matter by considering the provision of Section 360 of the Code of Criminal Procedure [Section 401 of the Bharatiya Nagarik Suraksha Sanhita, 2023] and Section 4 of the Probation of Offenders Act.

5. Under these circumstances, as per *Sanjabij Tari (supra)*, enforcing the strict payment of costs to discourage delaying tactics by the accused, appropriate order is required to passed and impugned judgment and conviction order passed by the Court of learned 8th Additional Chief Judicial Magistrate, Jamnagar in Criminal Case No.2989 of 2012 on 01/09/2022 is to be modified without entering into the merits of the case accordingly. Hence, following final order is hereby passed ;

FINAL = ORDER

1. Present criminal appeal is hereby disposed of and judgment and conviction order passed by the Court of learned 8th

Additional Chief Judicial Magistrate, Jamnagar in Criminal Case No.2989 of 2012 on 01/09/2022 is hereby **confirmed**.

2. The order of substantive sentence is hereby altered and the appellant/accused is hereby released on probation u/s. 4 of the Probation of Offenders Act on execution of bond of **Rs. 25,000/(Rupees Twenty Five Thousand Only)** and surety of like amount for good behaviour and conduct for a period of Two years with following conditions ;

- a). The appellant/accused shall remain in supervision of Probation Officer for good conduct for the said period of Two years.
- b). Appellant/accused has to disclose his residential address with Mobile number and shall not effect any change in such address or mobile number without prior permission of the Court.
- c). Appellant/accused shall surrender himself within a period of two years for serving sentence, if the Court so directed.

3. Breach of any of the above mentioned conditions would automatically lead to cancellation of probation order and judgment of trial Court imposing sentence and other conditions, shall come into effect.

4. The copy of this judgment shall be made available free of cost to the appellant/accused herein immediately under Section 363 of the Code of Criminal Procedure.

5. The copy of this judgment to be sent to District Magistrate, Jamnagar under Section 365 of the Code of Criminal Procedure.
6. The appellant shall abide by above terms of probation, the, necessary yadi be sent to the concerned Probation Officer for compliance of this Judgment and for making report about the behaviour of appellant/accused on every Six months.
7. True copy of this order to be sent to the learned Trial Court with immediate effect for record and compliance with original R & P, if it has been received.

Pronounced and signed today in open Court on this 28th day of July-2026.

Date: -28/07/2026
Place: - Jamnagar.
A J RAVAL/PS

(Nehalkumar Rajeshbhai Joshi)
Sessions Judge, Jamnagar
Code No.: GJ01318