

GJKH010027342026



Presented on : 04-05-2026
Registered on : 04-05-2026
Decided on : 04-06-2026
Duration :

IN THE COURT OF
PRINCIPAL DISTRICT JUDGE
AT NADIAD, KHEDA
(Presided Over by MR. PARVEEN KUMAR)

CR A/281/2026

Exhibit No.

Appellant/ Original Accused:~

Pushpaben Kaplpeshkumar Thakar,
Age. Adult, Occupation: Household,
Residence : 203, Krishnapark Apartment,
Mahemdabad, Dist. Kheda.

Versus

Respondents:~

1. Manager of Mahemdabad Santram Credit and
Consumer Co.Op. Society Ltd.,
Ambalal M Rohit,
Age. Adult, Occupation : Service,
Residence : 64-65, Valtsalya Complex,
Mahemdabad, Dist. Kheda.
2. The State of Gujarat.

APPEARANCE:~

Ld. Advocate Mr.R.N.Patel for the Appellant.
Ld. Advocate Mr.Y.P.Joshi for the Respondent.
Ld. P.P. Mr. D.R.Barot for the State.

Appeal against the Judgment dt.09-04-2025 delivered by the Judicial
Magistrate First Class, Mahemdabad in Criminal Case No.1122/2024.

J U D G M E N T

1. The appellant-original accused, has filed this appeal, being aggrieved and dissatisfied with the judgment and order, as detailed above, vide which the appellant-original accused has been held guilty and punished for the offence punishable under Section 138 of The Negotiable Instruments Act, to undergo simple imprisonment for 12 Months, Convict shall also pay the cheque amount of Rs.1,49,915/- to the complainant as compensation within one month u/S.357(3) of Cr.P.C., within 3 months.
2. The appellant, herein is the original accused-convict and the Respondent No.1 herein is the original complainant, hence, for the sake of convenience, they will be referred to as 'the convict' and the 'complainant' respectively in this judgment.
3. The brief facts, giving rise to this appeal, are that convict took loan from the original complainant and thereafter she made excuses regarding repayment of the said due amount. The accused gave Cheque No.332030 in the sum of Rs.1,76,915/- on 24-06-2024 and the said cheque was deposited in the complainant's Bank on 27-06-2024, but same was returned with endorsement of "Funds Insufficient". Thereafter, legal notice was issued on 03-07-2024, but accused neither replied nor paid the money, hence complaint was filed by the complainant against the convict.
4. The learned trial court recorded the statement of the accused under Section 251 of the Criminal Procedure Code, to which the accused did not admit the charge and preferred to undergo trial.
5. The Ld. Trial Court recorded evidence of the complainant, at Exh.-4. The complainant also produced documentary evidence vide Exh.15 to 28. On closure of evidence of both the sides, the Ld. Trial Court heard arguments of advocates of the parties and vide impugned judgment, the Ld. Trial Court held the accused guilty of offence under Section 138 of The Negotiable Instruments Act and convicted him as described above.
6. Learned counsel for appellant has contended that; *accused/convict has paid the entire outstanding amount to the complainant and nothing is due between the convict and complainant; complainant*

has admitted this fact on the purshish submitted by the convict; accused is burdened to maintain his family and she has no independent source of income; in the changed circumstances, leniency deserves to be exercised in favour of the convict. In the end, Ld. counsel for accused has prayed to allow the appeal.

7. Heard, the parties and perused the record.
8. After hearing both the parties, the following points arise for determination :~
 - 1) Whether the judgment of the trial court holding the accused guilty of offense under Section 138 of the N. I. Act and convicting him is within four corners of law ?
 - 2) Whether the judgment of the trial court requires to be modified in view of changed circumstances ?
 - 3) What order ?
9. My findings to above points are :
 - 1) In the Affirmative.
 - 2) In the Affirmative.
 - 3) As per final order below.

REASONS

Issue No.1 :-

10. From the deposition of complainant and supportive evidence, it is proved on record that the appellant/convict had issued cheque to the *defacto* complainant regarding a legally enforceable debt and he been convicted under section 138 of the NI Act vide impugned judgment of conviction. Hence, judgment of conviction does not require any interference by this court.

Issue No.2 :-

11. It is added here that convict has not moved application for compounding the offence rather prayer has been made for mercy because he has paid the entire cheque amount to the complainant. The counsel for the defecto complainant has stated that he has received the money but he does not endorses about the compromise with the convict. From the pursis, it appears that no amount is pending between the parties; defacto complainant and the accused.

Therefore, considering the changed circumstances and ratio of the case laws titled as **Murali V/s State Represented by Inspector of Police, 2021 0 Supreme (SC) 20** and **State of M.P. V/s Mahetaab, 2015 0 Supreme (SC) 123** and **Manish Jalan V/s State of Karnataka, 2008 Supreme (SC) 1038**, the sentence awarded by Ld. Trial Court, requires to be modified, and answer to Point No.2 is given in affirmative and regarding Point No.3 the following order is passed in the interest of justice:-

ORDER

1. This appeal is allowed in-part.
2. The impugned judgment is confirmed but, the sentence imposed by Ld. Trial Court for the said offence, is hereby reduced and the convict is hereby sentenced to the punishment of till the rising of the Court and fine of Rs.1,500/-(Fifteen Hundred Only) to be paid in the D.L.S.A and in default of payment of fine, convict shall further undergo SI for 03 days. If fine amount is deposited then accused/ convict be set free.
3. The copy of this order alongwith the record and proceedings of Ld. Trial Court Record, if summoned, be sent back alongwith copy of this order.
4. Application/applications pending if any stand disposed of, accordingly.
Pronounced in the open Court.

Date : 04-06-2026.

Place : Nadiad.

(Parveen Kumar)
Principal Sessions Judge
Kheda at Nadiad.
UI Code No.GJ01511