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Registered on 10-10-2024
Decided on 16-05-2026
Duration Y. M. D.
01 07 06

Exh.:---31

**IN THE HON'BLE COURT OF 3rd ADDL. SESSIONS JUDGE
KHEDA AT, NADIAD.**

CRIMINAL APPEAL No.534 OF 2024

APPELLANT :~

- 1 Vijaybhai Becharbhai Vaghela
Adult, Occupation : Business,
Residence : Vansar,
Ta. Matar, District : Kheda.

Versus

RESPONDENTS :~

- 1 Jagrutiben Wd/o. Shaileshbhai Chauhan
Adult, Occupation : Household,
Residence : Vansar,
Ta. Matar, District : Kheda.
- 2 State of Gujarat
Through Public Prosecutor,
Khedat at,Nadiad.

For applicant	:	Ld. Advocate Shri U.R. Prajapati
For respondent No.1	:	Ld. Advocate Shri M.P. Brahmbhatt
For the respondent No.2	:	Ld. PP Shri N.S.Rohit

Appeal under Section-415 of the Bharatiya Nagarik Suraksha Sanhita, 2023

JUDGMENT

- 1 Present appeal is preferred by the original accused, against the conviction & sentence imposed by the Ld. Additional Chief Judicial Magistrate, Nadiad in Criminal Case No.254/2023, dated 13.09.2024, whereby the original accused is convicted for the offence U/s. 138 of The Negotiable Instrument Act and sentenced to simple imprisonment for 1 year and passed order to pay Rs.4,00,000/- as compensation and in default of payment of amount, the present appellant/accused shall be undergone further simple imprisonment for 03 months.
- 2 On perusing the record, the appellant had filed application for suspension of the Judgment and order passed by the Ld. Additional Chief Judicial Magistrate, Nadiad before the Appellate Court and as per the order dated 10.10.2024, Judgment and Order of the Ld. Additional Chief Judicial Magistrate, Nadiad was suspended and accused/appellant was on bail out on surety of Rs.15,000/- and personal bond of like amount. It was also ordered to deposit 15% of cheque amount before this Court within 30 days.
- 3 Thereafter, the appellant and the original complainant appeared before this court. During the course of this appeal, parties have compromised the dispute out of Court and filed their compromise pursis vide Ex.29 and as per the compromise pursis, they have settled their matter and they

have settled their matter out of the Court and complainant has received all the due amount including deposited amount which was deposited by the present appellant. An application vide Exh.30 is also filed, for set aside the order of the Ld. Trial Court, hence there is no any outstanding settled amount remaining with the accused and hence, in the light of the compromise, the appellant has prayed to allow the application and set aside the order of the Ld. Trial Court.

- 4 Now, in the light of the Judgments of the Hon'ble Apex Court and observations and principles laid down, I am of the opinion that the case is compromised and the complainant is present before the Trial Court and also before the Appellate Court. However, in the light of the judgment pronounced by the Hon'ble Supreme Court in the case of ***Damodar S. Prabhu V/s. Sayed Babalal H.***, reported in ***2010(3) GLR 2042***, wherein, the Hon'ble Supreme Court has laid down guidelines introducing a “graded system of levying costs” on parties to encourage them to go for compounding at early state, for compounding before the Supreme court, 20% of cheque amount would have to be deposited with the Legal Services Authority. Whereas, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

5. Considering the guidelines issued by the Hon'ble Apex Court, I am bound by the guidelines and hence in the light of other judgments of the Hon'ble Supreme Court and Hon'ble High Courts, the appellant/accused is entitled for compound the matter at the early stage. As per the guidelines of the Hon'ble Apex Court, compound can be allowed, if accused pays cost of 15% of the cheque amount. Here it is required to be noted that the parties to the proceedings have settled their dispute in this Court as per their compromise pursis vide Exh.29. I am of the opinion, at the appellate stage the compromise can be recorded and appeal deserves to be allowed as compromise vide Exh.29, the 15% of settled amount costs of i.e. 15% amount of settlement is required to be paid by the accused towards costs in the District Legal Services Authority, Nadiad. In view of the compromise between the parties as per pursis Exh.29, I pass the following final order in the interest of justice.

ORDER

1. The Criminal Appeal No. 534 of 2024 is hereby allowed.
2. The Judgment and Order dated 13.09.2024 passed by the Ld. Additional Chief Judicial Magistrate, Nadiad in Criminal Case No.254/2023 is hereby set aside.
3. On payment of 15% of the settled amount towards costs in District Legal Services Authority, Nadiad and the compromise is recorded accordingly.

4. Thereafter 15% deposited amount be given to the DLSA, Nadiad. It is further directed that the 15% amount of the cheque can be adjusted from the deposited amount and remaining amount if any be paid to the present Appellant/Original accused after due verification.
5. The appellant/accused is hereby acquitted from the charges against his.
6. The earlier Bail Bond is still continued, in terms of section 437A which will remain in force for a period of six months for the purpose of Appeal against this order.
7. Copy of this order along with R&P, be sent to the Trial Court.
8. Copy of this order to be sent to Nazir, District Court, Nadiad and the District Legal Services Authority, Nadiad for compliance.

Signed and pronounced in the open Court today.

Date: 16/05/2026

Place: Nadiad

Prakashkumar Pratapji Purohit

3rd Addl. Sessions Judge,
Kheda at, Nadiad.

GJ00685