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	03	02	23	

**IN THE COURT OF 2<sup>ND</sup> ADDITIONAL CHIEF JUDICIAL  
MAGISTRATE, KHEDA AT NADIAD**

**CRIMINAL CASE NO.1004 OF 2023**

**COMPLAINANT**

**Proprietor of Shivam Finance**

**Ileshkumar Hasmukhbhai Solanki**

Aged : 47 years, Occupation : Finance,

Residing at : 33, Shree Ram Complex,

B/h. Globe Cinema, Rabari wad,

At : Nadiad, Ta : Nadiad, District : Kheda.

**VERSUS**

**ACCUSED**

**Chandresh Bhailalbai Patel**

Aged : Adult, Occupation : business

Residing at : A/8, Nityanand Society,

Opp. B.S.N.L. office, B/h. Vallabhnagar,

At : Nadiad, District : Kheda.

**Ld. Adv. N. N. Shah For The Complainant.**

**Ld. Adv. N. B. Pathan For The Accused.**

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**The Complaint Under Section - 138 Of  
The Negotiable Instrument Act**

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**J U D G M E N T**

**FACTS OF THE COMPLAINT IN BRIEF.**

**1.** The facts of the case is that the complainant is doing the business of finance in the name of **Shivam Finance**. The accused frequently visited the office of complainant and thus they became familiar to each other. One day accused came to complainant's office as he was in urgent need of **Rs.40,000/-** and asked for the same. Hence, complainant gave the said amount to the accused. The accused promised to pay back the same.

**1.1** As the accused did not returned the amount, on persistent request of the complainant, the accused issued a Cheque of **Rs.40,530/-** to the complainant. At the time of issuance of cheque, the accused gave an assurance that the cheque would be cleared on presentation to the bank. Relying on the words of the accused complainant accepted the cheque. However, on presentation of the cheque by the complainant to his bank, the same was returned unpaid by the bank with return memo stating remarks of **"Fund Insufficient"**.

**1.2** Thereafter, the legal demand notice by R.P.A.D post

was issued by the complainant to the accused through his Ld. Advocate and the said notice was served to the accused. In spite of such notice, the accused has not paid any amount to the complainant, resultant, the present complainant under Section-138 of N.I. Act has been filed. On examination of the complainant on oath and after verifying the documents produced among-with, the complaint was registered.

**PLEA OF THE ACCUSED.**

2. In response to summons issued, the accused appeared along-with his Ld. Advocate. The plea of the accused was recorded vide **Exh.6**, wherein the accused did not plead guilty and claimed the trial before the Court.

2.1 Looking at the facts of the complaint, documents produced along-with and evidence on oath, the summons triable procedure has been adopted for recording of plea and evidence. The Hon'ble Supreme Court in Mehsana Nagarik Sahakari Bank Ltd., Vs. Shreeji Cab Co.& Ors. Etc. 2013 (0) AIJEL-SC 54770 has observed when the evidence is recorded in full and not in a summary manner, there is no need for *denovo* trial. Hence, the case was proceeded further.

**EVIDENCE OF COMPLAINANT.**

3. To support the case, the complainant has produced following evidences.

**ORAL EVIDENCE**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exhibit</b>
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1.	Examination-in-chief of Mr.Ileshkumar Hasmukhbhai Solanki.	04
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**DOCUMENTARY EVIDENCES**

Sr. No.	Particulars	Exhibit
1.	True copy of License	28
2.	Bill No.53	29
3.	Cheque	30
4.	Return memo of cheque	31
5.	Office copy of R.P.A.D. notice	32
6.	R.P.A.D. receipt	33
7.	Track report	34

3.1 After-that the complainant has filed the evidence closing pursis vide **Exh.23**.

**FURTHER STATEMENT AND EVIDENCE OF THE DEFENCE.**

4. After the above evidence was presented by the prosecution, the matter was kept for recording of a further statement of the accused. The F.S was ready, however, in-spite of sufficient, reasonable and fair opportunities were given to the accused, he did not remain present before the Hon'ble Court for recording his F.S. In such circumstances,I find it judicious to take the observations of **the Hon'ble Gujarat High Court in the judgment of Manoj Vasudev Sompura Vs. State of Gujarat R/SCR.A/6721/2023 dated 15.09.2023**

12. From the above set of facts, it appears that the decision to

not remain present on the next date after getting his Further Statement u/s. 313 of Cr.P.C. recorded on the earlier date and to not conduct cross-examination of the complainant in spite of being afforded with sufficient opportunities, was a deliberate or voluntary decision taken by the petitioner. In the interregnum, there is nothing to suggest that the petitioner or his advocate had filed any application requesting the trial Court to grant him an opportunity to record his Further Statement u/s. 313 of Cr.P.C. or to conduct cross-examination of the complainant. The petitioner went into oblivion after the date when his Further Statement u/s. 313 of Cr.P.C. came to be recorded but before it could be exhibited. **Therefore, the trial Court was left with no other option but to conduct the trial in the absence of the petitioner, who had deliberately or voluntarily chosen to evade the trial proceedings.** Under these circumstances, there was no reason for the trial Court to issue any warrant against the petitioner, as contended by learned advocate for the petitioner. Moreover, the petitioner had not produced any evidence in his defence or had made any submissions either oral or in writing.

14. Considering the facts and circumstances of the case, this Court is of the opinion that **the trial Court was completely justified in passing the impugned judgment and order. The decision to not conduct cross-examination of the complainant in spite of repeated opportunities and to not remain present on the next date of trial when his Further Statement u/s. 313 of Cr.P.C. recorded on the earlier date was to be exhibited was a deliberate, intentional and conscious decision on the part of the petitioner. It was not that the petitioner was not aware about the stage of trial proceedings. However, deliberately, the petitioner had chosen to remain absent from the trial proceedings** from the date his Further Statement u/s. 313 of Cr.P.C. was recorded but before it could be exhibited.

I further find it judicious to take the observations of **the Hon'ble Karnataka High Court in the judgment of Sunil Yadav Vs. Smt. Y.C. Manju, Criminal Revision Petition No.664/2020.**

4. The main contention of the counsel appearing for revision petitioner before this Court is that the Trial Court committed an error in dispensing the 313 statement and ought to have been secured and recorded the 313 statement and the same ground was also raised before the First Appellate Court that he has not been given reasonable opportunity to defend

himself and committed an error in dispensing the 313 statement of the accused, if he has afforded an opportunity to defend himself, the result would be otherwise and counsel prays this Court to remand the matter to follow the procedure.

6. Having heard the revision petitioner's counsel and also the principles laid down in the judgment, the point that would for consideration of this Court are:

- 1) Whether this Court can exercise the revisional jurisdiction that Trial Court committed an error in dispensing the 313 statement in respect of the revision petitioner and committed an error in passing conviction and sentence whether the First Appellate Court also committed an error in affirming the judgment and whether it requires interference of this Court exercising the revisional jurisdiction?
- 2) What Order?

**15. It is also important to note that considering the factual aspect of the case as well as proceedings under Section 138 of N.I. Act, it is settled law that same has to be concluded expeditiously in the light of guidelines issued by the Courts from time to time for speedy disposal of the cases, the scope of Section 142, 143 and 145 of N.I Act, it was not necessary for the Trial Court to wait for accused to make his appearance. The Court is empowered to proceed with the case without recording the statement of the accused under Section 313 of Cr.P.C. The mere use of word 'may' cannot be held to confer a discretionary power on the Court to consider or not to consider such defence, since it constitutes a valuable right of an accused for access to justice. **If the accused has not bothered to remain present before the Court and also Court has to take note of the fact that complainant is running from pillar to pillar after filing of the case and when the material discloses that the accused did not bothered, Court has to exercise discretion and proceed with the case by dispensing with statement under Section 313 of the Code.** The accused has no regard for directions of the Court. When such being the case, it is the discretion of the Magistrate to dispense with the recording of Section 313 of Cr.P.C.**

18. Having considered the factual aspects of this case is concerned, not a case for remanding the matter only on the ground that **313 statement was not recorded and the same is a discretion of the Magistrate to dispense the same having considered the factual aspects of the case and hence I do not find any error committed by the Trial Court** in dispensing the same and proceeded against the petitioner and the same cannot be a whims and fancy of the

accused to seek for remand the matter when the opportunity was given to him and not utilized the same and no grounds to set-aside the order and remand the matter for fresh consideration.

**4.1** Thus, in light of observations of the Hon'ble High Courts, in a case under Section 138 of the Negotiable Instruments Act, when the accused is continuously avoiding the trial, then in such a situation, if the trial is conducted in the absence of the accused, it is permissible. In this case, the accused has neither remained present at the time of F.S, nor he has presented any evidence and therefore, the matter was proceeded further.

### **ARGUMENTS OF THE PARTIES.**

#### **5. The Ld. Advocate for the complainant has argued that-**

- Exh.4 is the affidavit of the complainant wherein he has supported all the facts of the complaint.
- Exh.28 is the true copy of complainant's licence to finance.
- Exh.29 is the bill no.53.
- Exh.30 is the cheque given by the accused bearing his signature to the complainant.
- Exh.31 is the cheque return memo of "Fund Insufficient".
- Exh.32 is the demand notice given to the accused.
- Exh.33 is the R.P.A.D. slip.
- Exh.34 is the track report.
- The complainant has proven the facts of the complaint through oral as well as documentary evidence.
- The complainant has proved his foundational facts.
- The complainant is the holder in due course of the cheque. According to Sections 138,139 and 118(A) of the Negotiable Instruments Act, the presumption in this case is

in favour of the complainant and the onus is on the accused to rebut that presumption however, the accused has failed to do.

- Considering all the above facts and evidence, the prosecution has proven the case against the accused beyond a reasonable doubt and has requested that the maximum punishment be imposed on the accused and the legal amount be refund.

**5.1 Neither the accused nor his Ld. Advocate were present and have not argued their case despite being given a sufficient, reasonable and fair opportunities.**

**ISSUES.**

6. In view of the above facts, in my opinion the following issues arises for the judicial decision of the said case.

1. Does, the prosecution prove that the accused **borrowed Rs.40,000/-** from the complainant. The accused did not repay the amount within the stipulated time. When the complainant demanded money, the accused gave a **cheque of Rs.40,530/-** to the complainant. On presentation of the said cheque in bank the same was not honored due to **"Fund Insufficient"**. Thereafter, the complainant gave a legal notice through the accused. Though, the said notice was served to the accused, he has not repaid the amount to the complainant within stipulated time and thus, he has committed an offence under Section 138 of Negotiable Instruments Act?

2. Does the accused prove that he has no legal debt or liability against the complainant?
3. What order?

**DECISION ON ISSUES.**

7. My decision on issues are as follows:
  1. In the affirmative.
  2. In the negative.
  3. As per final order.

**REASONS.**

**EVALUATION OF THE EVIDENCE**

8. Considering the nature of issues no.1 and 2, they are related to each other and therefore, in order to avoid repetition and for brevity they have been discussed simultaneously. To decide whether the accused has committed an offence under Section 138 of the Negotiable Instruments Act? It is very important to keep in mind the related definition.

**6. “Cheque”.**—A “cheque” is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form.

**8. “Holder”.**—The “holder” of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto. Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

**9. “Holder in due course”.**—“Holder in due course” means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or endorsee thereof, if 1 [payable to order,] before the amount mentioned in it became payable,

and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

**118. Presumptions as to negotiable instruments.**

Until the contrary is proved, the following presumptions shall be made:—

**(a) of consideration:**—that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, endorsed, negotiated or transferred, was accepted, endorsed, negotiated or transferred for consideration;

**(b) as to date:**—that every negotiable instrument bearing a date was made or drawn on such date;

**(c) as to time of acceptance:**—that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;

**(d) as to time of transfer:**—that every transfer of a negotiable instrument was made before its maturity;

**(e) as to order of endorsements:**—that the endorsements appearing upon a negotiable instrument were made in the order in which they appear then on;

**(f) as to stamp:**— that a lost promissory note, bill of exchange or cheque was duly stamped;

**(g) that holder is a holder in due course:**—that the holder of a negotiable instrument is a holder in due course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

**138. Dishonour of cheque for insufficiency, etc., of funds in the account.**

Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of

this Act, be punished with imprisonment for [a term which may be extended to two years’], or with fine which may extend to twice the amount of the cheque, or with both:

**Provided that nothing contained in this section shall apply unless**

(a) **the cheque has been presented to the bank within a period of six/three months** from the date on which it is drawn **or within the period of its validity, whichever is earlier;**

(b) the payee or the holder in due course of the cheque, as the case may be, makes a **demand** for the payment of the said amount of money by giving a **notice; in writing**, to the drawer of the cheque, **[within thirty days] of the receipt of information by him from the bank** regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque **fails to make the payment** of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, **within fifteen days of the receipt of the said notice.**

Explanation.—For the purposes of this section, “debt of other liability” means a **legally enforceable debt or other liability.**

**139. Presumption in favour of holder.**—It shall be presumed, unless the contrary is proved, **that** the holder of a **cheque received** the cheque of the nature referred to in section 138 **for the discharge**, in whole or in part, **of any debt or other liability.**

**140. Defence which may not be allowed in any prosecution under section 138.**—It shall not be a defence in a prosecution for an offence under section 138 that the **drawer had no reason to believe** when he issued the cheque **that the cheque may be dishonoured** on presentment for the reasons stated in that section.

**142. Cognizance of offences.**—1[(1)] Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) **no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing**, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made **within one month of the date on which the cause of action arises** under clause (c) of the proviso to section 138:

**2[Provided that the cognizance of a complaint may be**

**taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period;]**

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.].

3[(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.]

**146. Bank's slip prima facie evidence of certain facts.—**The Court shall, in respect of every proceeding under this Chapter, on production of Bank's slip or memo having thereon the official mark denoting **that the cheque has been dishonoured**, presume the fact of dishonour of such cheque, **unless** and until such fact is **disproved**.

**8.1** Now, whether the accused has committed the offence under Section 138 of the Negotiable Instruments Act or not? has to be examined keeping in mind the **essential elements** of the above definition, **along with the oral as well as documentary evidence** produced by the complainant side.

### **PRESENTATION OF CHEQUE.**

**9.** If we read the original cheque presented vide Exh.30, it was issued on 21.12.2022. As per Section 138 of the Act, it has to be presented to the bank within a maximum of three months. The return memo presented vide Exh.31 expresses that

the cheque was presented to the bank on 22.12.2022. Hence, the cheque was presented to the bank within the said time limit. Thus, Section 138 of the Act is complied with.

**RETURN OF CHEQUE.**

**10.** The complainant has submitted the cheque return memo vide Exh.31, which has been returned with the remark of "**Fund Insufficient**". Thus, Section 138 of the Act is complied with.

**DEMAND NOTICE.**

**11.** According to Section 138 of the Act, the holder of a cheque shall, within one month of the knowledge of the cheque being dishonoured, have to give a written demand notice to the drawer of the cheque for the said amount. The bank return memo presented at Exh.31 is of 23.12.2022 and the copy of the demand notice presented at Exh.32 is of 09.01.2023 and that notice has been served to the accused on 10.01.2023. Thus, the complainant has demanded the said amount in writing from the accused within thirty days from the return of the cheque. Thus, the provisions of the law has been complied with.

**COGNIZANCE AS PER SECTION 142.**

**12.** The complaint is filed in writing. In the present case, the complainant sent the demand notice dated 09.01.2023 at Exh. 32 to the accused, which is found to have been served on 10.01.2023. The accused has to pay the money within fifteen days of receiving the said notice and if the accused does not pay the money, then the complaint has to be filed within one month.

In the present case, the complaint has been filed on 15.02.2023. Here, as the accused has failed to pay amount within fifteen days of the service of the notice, the complaint is filed within one month after expiry of such fifteen days and therefore, the provisions of the law is complied with.

**AFFIDAVIT AND CROSS-EXAMINATION OF THE COMPLAINANT'S EVIDENCE.**

13. The complainant has supported all the facts of the complaint on oath in his affidavit of examination-in-chief vide Exh.04. Then-after, in-spite of sufficient, reasonable and fair opportunities were given to the accused remained absent and he preferred not to cross-examine the complainant.

**PRESUMPTION OF SECTION 139.**

14. The Section 139 of the presumes that the cheque has been issued under a legal debt or liability in favor of the holder of the cheque. In the present cheque, the complainant is the holder of the cheque and thus the said cheque has to be presumed as a matter of law to have been given by the accused under a legal debt or liability to the complainant. Now, if the accused wants to rebut such a fact and wants to prove a fact against it, then the responsibility of proving such a fact rests on the head of the accused. If the accused claims that the disputed cheque was not given to the complainant or he has no legal debt or liability against the complainant, then the onus is on the accused to prove such a fact and if the accused fails to prove such a fact, then according to the provisions of law, the fact that the said cheque was given by the accused to the complainant under a

legal debt or liability is to be considered as proved.

**FACTS PROVED BY THE COMPLAINANT AND ITS REBUTTAL BY THE DEFENCE.**

15. After considering all the oral as well as documentary evidence it transpires that the complainant has followed all the requirements of the Section 138 of the Negotiable Instrument Act and therefore, the complainant has proved his foundational facts. Now, once the complainant has proved his case the presumption under Section 118 and 139 of the Act goes against the accused. Thus, the onus is on the accused to rebut the fact proven by the complainant. And therefore, it becomes necessary to take into account the facts raised by the accused, if any.

**15.1 The accused has not presented any documentary evidence to rebut the proven facts of the complainant.**

15.2 On filing of the present case, the accused has been issued a summons from the said court. The same has been served and the accused has appeared with his Ld. Advocate. The plea of the accused has been recorded wherein he did not plead guilty and claimed the trial. **Thus, since filing of this case, the accused is well aware of the fact that a case under the Negotiable Instrument Act is pending against him in the court. The accused has been given sufficient, reasonable and fair opportunity. The accused could have presented evidence in his defense, but despite being given a fair opportunities, the accused has not presented any kind of oral or documentary evidence.** According to the general principle of criminal

jurisprudence, the onus is on the prosecution to prove the case against the accused beyond reasonable doubt. **But Sections 118 and 139 of the Negotiable Instrument are exceptions to the above general principle.** When the complainant has a cheque, it has to be presumed that it is legally due from the accused as per Section 118 and 139. Now if the accused wants to prove the contrary fact, then the onus is on the accused to rebut the presumption of Section 139. Just by not pleading guilty the accused cannot be presumed innocent in trial under Negotiable Instrument Act. He must rebut the proved foundational facts of the complainant with strong, concrete and cogent evidence.

15.3 The **Hon'ble Supreme Court Judgment Kishan rao v/s Shankargouda, Criminal Appeal No. 802 of 2018, 2018 SCC Online SC 651** it has been stated that,

Held that **a mere denial of the existence of debt by the accused is not sufficient to acquit the accused** and that under Section 139 of the negotiable Instruments Act, there is a presumption that the accused had issued the cheque for the discharge of some debt or liability and **if the accused leads no evidence for his defence rebutting this presumption, then he can be convicted.**

15.4 Thus, as seen above, the accused has to clearly prove that either he has no legitimate debt towards the complainant or his signature is not on the said cheque. In the present case, the accused has not been able to bring any such fact on record.

#### **ADMISSION OF DEBT BY THE ACCUSED.**

16. After filing of this complaint, the accused has paid **Rs.5,000/-** to the complainant and the same has been declared by

the same by passing a pursis of vide Exh.15 on 03.06.2024. This fact is relevant and therefore, requires the attention.

### **FINAL CONCLUSION.**

17. **It is essential to note here that this case has not been proceeded ex-parte.** The accused was summoned on filing of the complaint. The plea of the accused was recorded wherein he did not plead guilty and claim the trial. Thus, as the accused contested the matter, the trial was proceeded. Thus, **The accused is well aware of the fact that the trial is pending against him before the Hon'ble Court. However, he preferred not to participate into the proceedings.** One of the important reasons for the large number of pending cases under the Negotiable Instruments Act in the Courts is the continuous absence of the accused. Moreover, the accused who intentionally do not appear before the Court despite knowing very well that the trial is pending against them in the Court play a special role in such huge pendency. **The accused shall be granted sufficient, reasonable and fair opportunity to defend himself, but that opportunity cannot be infinite, because if that opportunity becomes infinite, the purpose of justice will be defeated.** Under the pretext of opportunity for defence, the accused should not have any ulterior motive to prolong the case unnecessary. Here in present case on hand, despite giving the accused a fair trial, he did not present any evidence in his defence.

17.1 Thus, in light of the above discussions, the accused is found guilty of the offence under Section 138 of the

Negotiable Instruments Act and deserves punishment. If the words of the Section 138 of the Negotiable Instruments Act are to be read, it gives discretionary power to the Hon'ble court regarding the punishment. The maximum punishment is two (02) years of imprisonment or a fine up to two times the amount of the cheque or both. Thus, the discretion lies with the Hon'ble court to order the punishment keeping in mind the facts of the case. There should be special and extra-ordinary circumstances for the maximum punishment in any offence. No such unusual and special circumstances are found in the present case. As discussed above, the complaint has succeeded in proving the case against the accused and therefore, the answer to point no.1 is given in the affirmative. As the accused has failed to rebut the proven facts of the complainant, the answer to point no.2 is given in the negative. Considering the elements like the punishment, the gravity of the offence, the age of the accused etc., while answering to issue no.3, I found following final order judicious.

### **ORDER**

1. The accused - **Chandresh Bhailalbhai Patel** resident of A/8, Nityanand Society, Opp. B.S.N.L. office, B/h. Vallabhnagar, At : Nadiad, District : Kheda is found guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and is sentenced to undergo **simple imprisonment** for a term of **twelve (12) months** under Section 255(2) of the Criminal Procedure Code, 1973.
2. As per Section 357(3) of the Criminal Procedure Code., the accused is ordered to pay the cheque amount Rs.40,530/- (Rupees Forty Thousand Five Hundred Thirty

Only) along-with 10% of cheque amount as cost and loss occurred to the complainant which in total is **Rs.44,583/-**. **However, as per pursis vide Exh.15 on 03.06.2024 the accused has paid Rs.5,000/-. Thus the accused is ordered to pay total amount of Rs.39,583/- (Rupees Thirty Nine Thousand Five Hundred Eighty Three Only)** to the complainant as compensation within one month.

3. If the accused defaults in paying the above compensation amount, then for such default, the accused is ordered to undergo **simple imprisonment for a further period of six (06) months.**
4. If there is a default in paying the amount of compensation, the execution of the punishment for the default shall be deemed to have commenced after the completion of the main punishment.
5. It is ordered that a copy of this order be provided to the accused free of cost upon his appearance.
6. If the accused in this case has previously served any sentence, then as per Section 428 of the Criminal Procedure Code, 1973, it is ordered that such sentence served shall be set off against the sentence imposed.
7. As per Section 418(2) of the Criminal Procedure Code, an arrest warrant against the accused for the execution of the sentence shall be issued.

Signed and pronounced in the open Court today on this 8<sup>th</sup> day of May, 2026.

08.05.2026  
Nadiad.

Shrikant Dilipbhai Trivedi  
2<sup>nd</sup> Addl. Chief Judicial Magistrate,  
Nadiad (Dist. Kheda)  
Code No. GJ01104.