

**IN THE COURT OF SESSIONS JUDGE,
KACHCHH AT BHUJ.**

Criminal Appeal No.169/2025

APPELLANT(ORIGINAL ACCUSED):-

Sumar Sanya Gadhavi,

Exh. 22 /A

Age 64, Occupation : Business,
R/o. Village – Mota Layja,
Tal. Mandvi – Kachchh.

Vs.

RESPONDENT(ORIGINAL COMPLAINANT)

1. Joisar Dayaram Shivji,
Age 65, Occupation – Agriculture/Business,
R/o. Village – Jakhau, Tal. Abadasa.
(Original Complainant)
2. The State of Gujarat.
Through:- Public Prosecutor,
Sessions Court Building,
Bhuj- Kachchh.

.....Opponents

ADVOCATES:-

1. L.A. Mr. D. N. Barot for the appellant.
2. L.A. Mr. K. M. Dhuva for the opponent No.1.
3. Ld. Ad. A. P.P. for the State.

SUBJECT: Criminal Appeal under Section 415 of B.N.S.S.

:: JUDGMENT ::

- 1) The present appeal has been preferred by the appellant/accused with a prayer to quash and set aside the

impugned judgment and order passed in Criminal Case No.664/2022 by the Ld. Additional Chief Judicial Magistrate, Nalia - Kachchh by which the appellant-accused has been convicted for the offence punishable under section 138 of the N.I. Act.

- 2) Both the parties have made request that the dispute between them has been settled, so they may be granted permission for purpose of compromise in this matter. Both the parties and their Ld. Advocates have admitted the contents of the compromise pursis, so it becomes very clear that the matter has been settled therefore the permission has been granted for purpose of compromise. It is further submitted that they do not want to proceed the matter. The parties are present and their Ld. Advocates are also present and they have admitted that the dispute between the parties has been settled and they have also admitted their signatures in the compromise pursis and no any due amount is remaining. The matter has been settled finally and therefore they do not want to proceed the matter and they have requested to accept the compromise.
- 3) Considering the above facts, it becomes very clear that the matter has been settled finally without any pressure and the parties have settled their dispute willingly and therefore the compromise is hereby accepted and request made by the parties to this Court to quash and set aside the impugned order passed passed by tge Ld. TrialCourt.
- 4) In view of the submission made by the Ld. Advocate by the parties and compromise pursis, the matter has been

settled between the parties. The complainant has also admitted that he has received the amount as per the compromise pursis, therefore the appellant is permitted to compound the offence for which he has been convicted i.e. under section 138 of the Negotiable Instruments Act.

- 5) In view of the aforesaid facts and circumstances of the case, parties have settled their dispute and apellant has paid the settlement amount to the respondent i.e. the original complainant. So, the appellant has also requested this Court to permit him to compound the offence. Considering the decision of the Hon'ble Supreme Court in the case of the **2010 AIR SCW 2929 Damodar S.Prabhu vs Sayed Babalal H on 3 May, 2010**, the appellant is permitted to compound the offence under section 138 of the Negotiable Instruments Act, for which he has been punished and convicted.
- 6) At this stage, it is also pertinent to note that the Ld. Advocate for the appellant has submitted that the appellant has been facing crucial situation and he is not sound economically. Therefore, he may be exempted from the amount of costs. I have considered the submission made by the Ld. Advocate for the appellant and the respondent and therefore, the appeal deserves to be allowed. Hence, I pass the following order:-

: ORDER :

1. This appeal is hereby allowed.
2. The impugned judgment and order dated 13.10.2025

passed in Criminal Case No.664/2022 by the Ld. Additional Chief Judicial Magistrate, Nalia – Kachchh, is hereby quashed and set aside.

Consequently, the appellant-accused is hereby ordered to be set at liberty forthwith.

Pronounced and signed in the Lok-Adalat on to-day
14th day of March, 2026.

Sd/-

Date : 14/03/2026
Place : BHUJ – KACHCHH.

(Mahida Dilip P.)
Sessions Judge,
Kachchh at Bhuj.
(CODE NO.GJ00551)