

Criminal Appeal No. 127 / 2025

Order below Exh.1 :-

In view of the compromise pursis filed by the appellant and the opponent, vide Exh.9, both the parties of the present appeal have amicably settled their dispute and no dispute remains between them now. It is also stated in this pursis that the conviction order passed by the trial court be set aside and the accused be acquitted.

Present appeal is filed against the conviction order passed by the Ld. Trial Court for the offence punishable u/Sec.138 of the Negotiable Instruments Act. Both the parties are arrived at amicably settlement and therefore considering the provision of Section 147 of the NI Act, their settlement pursis is recorded. But as per the direction given by the Hon'ble Apex Court in case of *Damodar S. Prabhu V/s. Saiyed Babalal H.* reported in **AIR 2010 SC 1907**, the present compromise takes place at the stage of hearing of appeal by the parties herein. The Hon'ble Supreme Court has further mandated that the competent Court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. Thus, the Appellate Court can exercise his discretion and direct the accused to pay less amount than that of 15% of the amount mentioned in the cheque. Considering this aspect in the present case, the accused seems to have been in very precarious financial condition and his economic condition is in very bad shape, consequently, considering all the circumstances, that have been specified in application, the amount that may be realized that should be realized less than that. In the present case, the cheque amount is to the tune of Rs.3,45,000/- and 1% of which would be Rs.3,450/-. Considering the economic position and cumulative circumstances suggested before the court, if accused be directed to pay Rs.3,450/- then it would serve the interest of justice. Consequently, the following order is passed;

-: ORDER :-

- (1) The present appeal is hereby allowed and consequently stands disposed of on account of compromise between complainant and accused herein.
- (2) The judgment passed on 26.11.2025 by the Ld. Additional Chief Judicial Magistrate, Balasinor in Criminal Case No.1680/2021 is hereby set aside and accordingly, the accused stands acquitted from the sentence u/Sec.138 of the Negotiable Instruments Act.
- (3) The accused is directed to deposit the cost of **Rs.3,450/- (Rupees Three Thousand Four Hundred Fifty only)** in the District Legal Services Authority, Mahisagar at Lunawada.
- (4) The amount deposited by the appellant at the time of filing appeal, if any, be given back to the appellant / accused and such payment shall be made by an account payee cheque or direct deposit in account.
- (5) Copy of this order be sent to the Ld. Trial Court.

Date : 11.07.2026

Lunawada.

National Lok Adalat.

(M. N. Gadkari)
Sessions Judge,
Mahisagar at Lunawada.
[GJ00425]