

GJNV010002082026



ORDER BELOW EXH.1 IN CRIMINAL APPEAL
NO.11/2026

1. This is an appeal u/s 415 of BNSS against the impugned order of conviction dated 03.03.2025 passed by Learned Additional Judicial Magistrate (First Class), Navsari, in Criminal Case No.84/2024, by which the original accused/appellant was held guilty and convicted for the offences punishable u/s 138 of The Negotiable Instruments Act, and was awarded sentence of one year simple imprisonment and further directed to pay amount of cheque Rs. 1,50,000/- as a compensation to the complainant. Feeling aggrieved by the impugned judgment and order, the present appeal has been filed.

2. The appellant is the accused and the respondent is the complainant before the trial Court, for the sake of convenience parties are referred by their ranks before the trial Court.

3. After filing of the present appeal the summons were issued to the respondents, who have appeared in the present appeal responding the service of summons.

4. At the very outset Learned Advocate for appellant has argued that in the present case the parties herein have settled the present matter by way of compromise. During course of hearing and considering the facts and circumstances of the case, it is appeared to this Court that there exist element of a settlement

which may be acceptable to the parties. The dispute between parties is settled and parties have submitted a Compromise Pursis vide **Exhibit-11 dated 18.02.2026**. L.A for the appellant has further submitted that as per Section 147 of the Negotiable Instruments Act (hereinafter referred to as “N.I. Act”) the offence under the N.I Act are compoundable respective of the anything contained in the Code of Criminal Procedure (hereinafter referred to as “the Code”). He has further submitted that in view of the judgment of Hon'ble Supreme Court in *Damodar S. Prabhu Vs. Sayed Babalal H. reported in 2010(5) SCC 663*, wherein, Bench of three Hon'ble Judges of Supreme Court have observed in para-17 that:

“17. We are also conscious of the view that the judicial endorsement of the above quoted guidelines could be seen as an act of judicial law-making and therefore an intrusion into the legislative domain. It must be kept in mind that Section 147 of the Act does not carry any guidance on how to proceed with the compounding of offences under the Act. We have already explained that the scheme contemplated under Section 320 of the CrPC cannot be followed in the strict sense. In view of the legislative vacuum, we see no hurdle to the endorsement of some suggestions which have been designed to discourage litigants from unduly delaying the composition of the offence in cases involving Section 138 of the Act. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the Court is spent on the trial of these cases and the parties are not liable to pay any Court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. 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. Bona fide litigants should of

course contest the proceedings to their logical end. Even in the past, this Court has used its power to do complete justice under Article 142 of the Constitution to frame guidelines in relation to subject-matter where there was a legislative vacuum.”

5. Hence, while referring to above judgment of Hon'ble Supreme Court, it is submitted by the Learned Advocate for appellant-accused that though the parties herein have sought to compound the offence in present case during the pendency of appeal, yet above judgments clearly allow the compounding of offence under Section 147 of the N.I. Act, and even in the eventuality of absence of complainant provides for the compounding of offence, provided that the Court must be satisfied in such eventuality that the complainant has been duly compensated.

6. LA for appellant has submitted that the offence which is the subject matter of present appeal may be allowed to be compounded by way of compounding of offence while taking recourse of Section 320(5) of the Code and Section 147 of the N.I. Act.

7. L.A for appellant-accused so far compounding of offence by taking recourse to Section 320(5) of the Code read with Section 147 of the N.I. Act is concerned.

8. The learned Advocate for the appellant-accused has prayed that a lenient view may be taken so far the imposition of cost in view of ratio of law settled by Hon'ble Supreme Court in **Damodar S. Prabhu (supra)**, is concerned.

9. Keeping in view the above-mentioned entire facts and circumstances this Court is of the considered opinion that the offence can be compounded in the present appeal with the leave of

the Court but here comes into play the ratio of law settled by Hon'ble Supreme Court in **Damodar S. Prabhu (supra)**, wherein as mentioned hereinabove in para 17 of that judgment, that the imposition of the cost by the competent Court is the matter of discretion, the scale of costs has been suggested in that case in the interest of uniformity. This aspect was also considered by *Hon'ble Supreme Court in Madhya Pradesh State Legal Services Authority Vs. Pratik Jain, reported in 2015 (1) SCC (Cri.) 211*, wherein, in **para-24 to 27** it was observed in connection with para 17 of **Damodar S. Prabhu (supra)** as under:

24. It is clear from the reading of the aforesaid para that the Court made it clear that framing of the said guidelines did not amount to judicial legislation. In the opinion of the Court, since Section 147 of the Act did not carry any guidance on how to proceed with compounding of the offences under the Act and Section 320 of the Code of Criminal Procedure, 1973 could not be followed in strict sense in respect of offences pertaining to Section 138 of the Act, there was a legislative vacuum which prompted the Court to frame those guidelines to achieve the following objectives:

(i) to discourage litigants from unduly delaying the composition of offences in cases involving Section 138 of the Act;

(ii) it would result in encouraging compounding at an early stage of litigation saving valuable time of the Court which is spent on the trial of such cases; and

(iii) even though imposition of costs by the competent Court is a matter of discretion, the scale of cost had been suggested to attain uniformity.

At the same time, the Court also made it abundantly clear that the concerned Court would be at liberty to reduce the costs with regard to specific facts and circumstances of a case, while recording reasons in writing for such variance.

25. What follows from the above is that normally costs as specified in the guidelines laid down in the said judgment has to be imposed on the accused persons while permitting compounding. There can be

departure therefrom in a particular case, for good reasons to be recorded in writing by the concerned Court. It is for this reason that the Court mentioned three objectives which were sought to be achieved by framing those guidelines, as taken note of above. It is thus manifestly the framing of "Guidelines" in this judgment was also to achieve a particular public purpose. Here comes the issue for consideration as to whether these guidelines are to be given a go by when a case is decided/settled in the Lok Adalat? Our answer is that it may not be necessarily so and a proper balance can be struck taking care of both the situations.

26. Having regard thereto, we are of the opinion that even when a case is decided in Lok Adalat, the requirement of following the guidelines contained in Damodar S. Prabhu (supra) should normally not be dispensed with. However, if there is a special/specific reason to deviate therefrom, the Court is not remediless as Damodar S. Prabhu (supra) itself has given discretion to the concerned Court to reduce the costs with regard to specific facts and circumstances of the case, while recording reasons in writing about such variance. Therefore, in those matters where the case has to be decided/settled in the Lok Adalat, if the Court finds that it is a result of positive attitude of the parties, in such appropriate cases, the Court can always reduce the costs by imposing minimal costs or even waive the same. For that, it would be for the parties, particularly the accused person, to make out a plausible case for the waiver/reduction of costs and to convince the concerned Court about the same. This course of action, according to us, would strike a balance between the two competing but equally important interests, namely, achieving the objectives delineated in Damodar S. Prabhu (supra) on the one hand and the public interest which is sought to be achieved by encouraging settlements/resolution of case through Lok Adalats.

27. Having straightened the position in the manner above, insofar as the present case is concerned, as we find that the parties had already settled the matter and the purpose of going to the Lok Adalat was only to have a rubber stamp of the Lok Adalat in the form of its imprimatur thereto, we do not find any error in the impugned judgment, though we are giving our own reasons in support of the conclusion arrived at by the High Court in dismissing the writ petition filed by respondent No.2, while straightening the approach that

should be followed henceforth in such matters coming before the Lok Adalats.

10. Learned Advocate for appellant-accused has contended that the appellant-accused was ready in the present case to settle the matter but that could not be do sometimes on account of unavoidable circumstances of the appellant-accused and sometimes in view of exaggerated demands of the complainant i.e. the excess amount than that which is mentioned in cheque and/or sometimes on account of some unavoidable circumstances. Hence, he has prayed that the amount of cost may be waived so that the appellant-accused is not overburdened with the amount of cost particularly when non settlement of the present matter was not exclusively his fault.

11. Hence, in these circumstances keeping in view the entire act and conduct of the parties this Court is of the view that in the present case appellant-accused though tried their level best to compromise the matter with the complainant but due to some circumstances beyond his control he could not enter into compromise with the complainant. Hence, in these circumstances this Court is of the opinion that interest of justice will be best served if the present appeal is allowed and the amount of cost is waived considering the over all circumstances upon the appellant-accused in the present case.

12. Hence, keeping in view the entire provisions of Section 320 (5) of the Code and Section 147 of the N.I. Act as well as above mentioned judgments and the relevant observations of the Hon'ble Supreme Court in abovementioned cases, this Court is of the view that the matter has been duly settled in full and final between the parties hereto. In view of the application submitted on

behalf of appellant-accused it appears that the offence has been lawfully compounded. Hence, keeping in view the above facts and circumstances, I pass the following order:

ORDER

- 1) The present Criminal Appeal No.11/2026 is hereby **allowed**.
 - 2) The judgment dated 03.03.2025 passed by Learned Additional Judicial Magistrate (First Class), Navsari, in Criminal Case No.84/2024, is hereby set aside and the appellant-accused is acquitted of accusation under Section 138 of the N.I. Act.
 - 3) Previous surety bonds of the appellant stand discharged.
- ⇒ Copy of this order be sent to the concerned trial court.

Signed and pronounced in the National Lok Adalat
today on this 14th day of March, 2026 at Navsari.

Date : 14-03-2026 (**Pratik Jaysukhbhai Tamakuwala**)

Place: Navsari.

Sessions Judge,

Navsari.

UID. No.GJ 00581

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