

Order below Exh.1 in Criminal Appeal No.81/2026

- (1) The present Criminal Appeal is preferred against the Judgment and order of conviction dated **09/03/2026** passed in **Criminal Case No.1611 of 2025** whereby the Learned 5th Additional Chief Judicial Magistrate, Porbandar has convicted the present appellant under section 138 of Negotiable Instrument Act with **six months of simple imprisonment** and directed him to pay cheque amount of **Rs.2,04,400/-** as compensation to the complainant and in default, further imprisonment of 1 month.
- (2) Against the aforesaid Judgment and Order, the present appellant/original accused preferred the instant Criminal Appeal. The respondent/complainant appeared along with his Advocate and filed a settlement memo vide **Ex.11** stating that he has settled the matter with the present accused/appellant and has received full and final settlement amount of Rs.1,60,000/- in cash from the accused/appellant against the cheque amount of Rs.2,04,400/-. It is also submitted that the original complainant does not wish to contest the matter anymore and has no objection if the judgment of conviction and fine passed against the accused/appellant is set aside and he will be acquitted.
- (3) It is prayed by the Ld. Advocate for the appellant that the present appeal should be disposed of in view of the settlement and the fact of payment being made to the respondent/original complainant and as compounding of offence is permitted in appeal as well.

- (4) I have heard both the parties and perused the record of the case including the settlement memo of the original complainant. It is not in dispute that the parties have amicably settled their dispute regarding the dishonoured cheque forming part of complaint wherein the order of conviction was recorded. Considering the fact that original complainant/present respondent has no objection if the present appeal is allowed by setting aside the impugned order and also considering the observation of Hon'ble Supreme Court in the case of M/S. METERS AND INSTRUMENTS PRIVATE LIMITED & ANR. VS. KANCHAN MEHTA, that the object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, compounding at the initial stage has to be encouraged but is not debarred at later stage subject to appropriate compensation as may be found acceptable to the parties or the Court. Further, the guidelines in Damodar (Supra) have been held to be flexible as may be necessary in a given situation as laid down by the Hon'ble Supreme Court in the matter between Madhya Pradesh State Legal Services Authority versus Prateek Jain and Anr. reported in (2014) 10 SCC 690. Accordingly, the instant criminal appeal is being disposed of in terms of the settlement memo.

∴ ORDER ∴

- The present **Criminal Appeal is hereby disposed of in view of the settlement** entered between the complainant

and appellant/original accused **in today's National Lok Adalat.**

- **The impugned Judgment** dated **09/03/2026** passed in **Criminal Case No.1611 of 2025** convicting and sentencing the present appellant with simple imprisonment of **six months** and compensation of **Rs.2,04,400/-** under Section 138 of N. I. Act **is hereby set-aside on account of compounding of offence.**
- The appellant is on bail; his bail bond and surety shall remain in force for another period of six months in compliance of Section 437-A of the Code of Criminal Procedure.

Pronounced & signed in the open court on this **11th**
Day of **July, 2026** under my hand and seal.

Date: **11/07/2026**
Place: PORBANDAR
National Lok Adalat

(M. A. BHATTI)
Sessions Judge,
Porbandar.