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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
PANCHMAHALS AT HALOL**

CRIMINAL APPEAL NO. 20 OF 2026

JIGAR NAVINCHANDRA PARIKH)	
S/O. LATE NAVINCHANDRA H PARIKH)	APPELLANT
Age: 43 Years, Occu.Businessman,)	(ORIGINAL
R/O. 19, Shyam Sunder Society,)	COMPLAINANT)
Near Bank Of Baroda, Halol, Dist.Panchmahal.)	

VERSUS

NIRANJAN BHAGVANDAS THAKKAR)	
S/O. BHAGVANDAS THAKKAR)	
Occu. Businessman,)	RESPONDENT
R/O. Rich Pan Centre, Near Ganpati Mandir,)	(ORIGINAL
Opp. Hanuman Temple, Kanjari Road, Halol,)	ACCUSED)
Taluka Halol, Dist. Panchmahal.)	

**APPEAL UNDER SECTION 413 OF
THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023**

AGAINST THE JUDGMENT & ORDER DATED 30.01.2026 PASSED BY THE COURT OF
LEARNED ADDITIONAL CHIEF JUDICIAL MAGISTRATE, HALOL IN
CRIMINAL CASE No. 3785/2023.

APPEARANCE:

MR. K. S. RANJAN, MR. D. S. RATHOD, Ld. Advocates for the Appellant.

MR. R. B. PARMAR, MR. M. Y. PARMAR, MR. V. G. CHAVDA, Ld. Advocates for the Respondent.

JUDGMENT

PRESENT APPEAL FILED AGAINST

1. The Appellant has preferred the present Criminal Appeal u/s.413 of the Bharatiya Nagarik Suraksha Sanhita (“**B.N.S.S.**”), being aggrieved and dissatisfied by the impugned Judgment and Order dated 30.01.2026 passed by the Court of Learned Additional Chief Judicial Magistrate, Halol (“**Trial Court**”) in Criminal Case No. 3785/2023 (“**Criminal Case**”) whereby the Ld. Trial Court was pleased to acquit the Accused from having committed offence punishable u/s. 138 of the Negotiable Instruments Act (“**Act**”).

STATUS OF PARTIES

2. The Appellant was the original Complainant whereas the Respondent herein was the original Accused before the Ld. Trial Court. For the sake of convenience, the parties shall be referred to in their original capacity and status as before the Ld. Trial Court.

FACTS AND ANNALS

3. Brief facts giving rise to the present Appeal can be succinctly stated as under: -
 - i. It was the case of the Complainant before the Ld. Trial Court that he is the Director in Halol Urban Bank and he was having very cordial relationship with the accused.
 - ii. It was alleged that on 10.10.2022 the accused requested for urgent financial requirement of sum Rs.1,50,000/-. It is alleged that on the request of the accused, the complainant had transferred sum of Rs.1,50,000/- in the bank account of one Nileshbhai Chandubhai Parmar.

- iii.** It was further contended that thereafter as the complainant was having financial requirement, he had asked for refund of the said amount, pursuant to which in the month of July 2023, the accused had issued cheque of sum of Rs.1,30,000/- dtd.07.07.2023 of Janata Sahakari Bank, Halol to the Complainant, however, the said cheque upon being presented with the Bank for realization came to be dishonoured on the ground of insufficient funds on 04.10.2023.
- iv.** It was alleged that thereafter meeting was held between the accused, brother of the Accused and the complainant, in which it was agreed that as per the accounts, total sum of Rs.35,45,000/- was to be paid by the accused to the complainant. In pursuance of the said settlement, the subject cheque bearing No.078294 dtd.23.10.2023 came to be issued by the accused to the complainant.
- v.** It was further contended that as the entire accounts were sought to be settled, no separate notice for dishonour of cheque of sum of Rs.1,30,000/- was issued.
- vi.** It was contended that upon the presenting of the subject cheque No.078294 by the Complainant with his bank for realization, the same also came to be dishonoured by the bank of the Accused on the ground of funds insufficient.
- vii.** Pursuant thereto, the complainant had issued legal notice dtd.02.11.2023 to the accused, which was received by the accused. The accused had also replied to the said notice of the Complainant wherein the Accused had accepted financial transactions with the Complainant.

- viii.** Under the circumstances, it was alleged that despite the Accused having received notice and having accepted the transaction with the Complainant, the accused under the false pretext and excuse refused to pay outstanding dues to the complainant and hence, the complainant was compelled to file aforesaid criminal complaint against the accused. for having committed offence punishable u/s. 138 of the Negotiable Instruments Act.
- ix.** Pursuant to lodging of the aforesaid complaint, process was issued upon the Accused by the Ld. Trial Court, pursuant to which, the Accused appeared before the Ld. Trial Court and engaged his private Lawyer. Thereafter, the plea of the Accused was recorded wherein the Accused pleaded not guilty and demanded to be tried.

EVIDENCE LEAD BY THE COMPLAINANT

- x.** Complainant had led the following evidence at the trial to bring home the charges against the Accused : -

ORAL EVIDENCE

Sr. No.	Testimony of	Exhibit
1	Testimony of the Complainant Jigarkumar Navinchandra Parikh	4

DOCUMENTARY EVIDENCE

Sr. No.	Document	Exhibit
1	Original Disputed Cheque No.078294 of Janata Sahakari Bank Halol Branch	6
2	Original Cheque Return Memo	7
3	Office copy of the Notice given by the Complainant through his Advocate to the Accused	8
4	Receipt regarding money paid by the complainant for R.P.A.D. notice	9
5	Track Report of Postal Department	10

	regarding notice received by the accused	
6	Copy of Reply of Accused to notice given by the Complainant	11
7	Copy of Letter of Undertaking given by the Accused	12
8	Original Cheque No.148606 for sum of Rs.1,30,000/- of Janata Sahakari Bank Halol Branch issued by the Accused	13
9	Original Return Memo of Cheque No.148606	14

FURTHER STATEMENT

- xi.** After the closure of the Complainant's evidence, Further Statement of the Accused was recorded by the Ld. Trial Court wherein the Accused denied all the incriminating evidences relied upon against him at the trial and pleaded that no such alleged loan transaction had occurred between the parties and cheque has been misused. Accused chose not to lead any evidence in support of his defence.
- xii.** The Ld. Trial Court upon considering the evidence on record, was pleased to come to the conclusion that the complainant has failed to prove any legally enforceable debt in question. Ld. Trial Court further found that even the complainant has failed to prove his financial capacity to issue the said loan. Also other clinching observations were made by Ld. Trial Court regarding illegal execution of money lending transactions under the garb of friendly relation and accordingly, was pleased to acquit the accused for having committed alleged offences. Ld. Trial Court was further pleased to notify the Income Tax Authorities with respect to alleged cash transaction entered and executed by the complainant with the accused.

- xiii.** The Complainant being aggrieved and dissatisfied by the impugned Judgment and Order passed by the Ld. Trial Court, has preferred the present acquittal appeal before this Court. Pursuant to the filing of the present appeal, this Court issued process upon the Accused and also called for the Records & Proceedings from the Ld. Trial Court.

SUBMISSIONS OF THE PARTIES

- 4.** Ld. Advocate for the complainant submits that the cheque is not in dispute. Even the signatures on the cheque are not in dispute. It is further submitted that the accused has also basically admitted the financial transaction between the parties. Under the circumstances, it is submitted that Ld. Trial Court has committed manifest error in rejecting complaint of the complainant. It is further submitted that there is also presumption under the Act. Hence, it is submitted that impugned judgment and order passed by Ld. Trial Court is perverse and deserves to be set aside and the accused deserves to be convicted for the offence as alleged.
- 5.** *Per contra*, Ld. Advocate for the accused submits that there is no proof or any evidence to show that such huge sum of Rs.35,45,000/- was ever loaned by the complainant to the accused. It is submitted that complainant has failed to show his financial capacity. It is submitted that evidence on record clearly shows that the complainant is illegally engaged in money lending transaction without having licence. It is submitted that Ld. Trial Court has committed no error in rejecting complaint. Hence, on all such grounds, it is prayed that the impugned Judgment and order passed by Ld. Trial Court be confirmed.

ISSUES FOR CONSIDERATION OF THIS COURT

6. Upon hearing the rival submissions of the parties, and upon perusing the impugned Judgment & Order passed by the Ld. Trial Court, and upon perusal of the entire record and proceedings of the Ld. Trial Court, the following issues arise for consideration of this Court : -
- (a) Whether the impugned Judgment and Order passed by the Ld. Trial Court acquitting the Accused for having committed offence punishable u/s.138 of the Negotiable Instruments Act is perverse, without application of mind, and de hors the evidence on record ?
 - (b) Whether the impugned Judgment and Order passed by the Ld. Trial Court deserves to be interfered by this Court in exercise of Appellate Jurisdiction ?
 - (c) What final order ?

FINDINGS

7. My findings on the aforesaid issues are as under : -
- (a) IN NEGATIVE
 - (b) IN NEGATIVE
 - (C) AS PER FINAL ORDER

REASONS

(SCOPE OF ACQUITTAL APPEAL)

8. Present is an acquittal appeal preferred filed by the original Complainant against the judgment and order passed by the Ld. Trial Court acquitting the accused for having committed offence punishable under Section 138 of the Negotiable Instrument Act.

9. Before proceeding further, I may take note of the well established principle with respect to scope of interference in acquittal appeal. The Hon'ble Apex Court in case of **BABU SAHEBAGOUDA RUDRAGOUDAR AND OTHERS vs. STATE OF KARNATAKA** in Criminal Appeal No.985 of 2010 decided on April 19, 2024 has summarized the law with respect to acquittal appeal as under :

"36. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging acquittal of the accused recorded by the trial Court.

37. This Court in the case of **Rajesh Prasad v. State of Bihar and Another (2022) 3 SCC 471** encapsulated the legal position covering the field after considering various earlier judgments and held as below: -

"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415]

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the

court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

38. Further, in the case of **H.D. Sundara & Ors. v. State of Karnataka (2023) 9 SCC 581** this Court summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of CrPC as follows: -

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and 8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of

acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-

- (a) That the judgment of acquittal suffers from patent perversity;
- (b) That the same is based on a misreading/omission to consider material evidence on record;
- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court."

10. Thus, in light of the aforesaid principle, the only aspect which this Court is required to consider is whether the finding of the Ld. Trial Court is perverse, without application of mind, based on any extraneous consideration, and by ignoring material evidence on record. Unless the view taken by the Ld. Trial Court is perverse and/or based on no evidence on record, this Court sitting in acquittal appeal cannot reverse the finding of acquittal recorded by the Ld. Trial Court. It has to be noted that acquittal appeal is basically on principles. No doubt in acquittal appeal, the Court has to re-appreciate evidence on record, but at the same time if upon re-appreciation of evidence on record, the view taken by Ld. Trial Court appears to be plausible view, then the Court sitting in acquittal appeal cannot disturb finding of acquittal recorded by Ld. Trial Court. Even if two views are possible then also the Appeal Court cannot substitute its own view to that of the view taken by the Trial Court. Hence in light of aforesaid legal principles let us evaluate the evidence on record and see whether the findings of the Ld. Trial Court is perverse and/or based on no evidence on record.

APPRECIATION

- 11.** Now it is the case of the complainant that on 10.10.2022 on the say of the accused he had transferred sum of Rs. 1,50,000 to the friend of accused *viz.* Nileshbhai Chandubhai Parmar. When the complainant asked the Accused to refund the said amount, the accused had issued one cheque of Rs.1,30,000/- on 07.07.2023, which got dishonoured on the ground of insufficient funds. It is the complainant's case that for resolution of the said dispute, tripartite meeting was organized between the complainant, accused and the brother of the accused Bhaveshbhai Shah. In the said meeting the accused had expressed his remorse for cheque having got dishonored. Thereafter, it was agreed to settle the entire accounts, as per which total sum of Rs.35,45,000/- was agreed to be paid by the accused to the complainant. In pursuance thereof, Accused had issued the subject cheque No.078294 dtd.23.10.2023 to the complainant. However, even the said cheque was dishonoured which entailed issuance of legal notice by the Complainant. Since the said amount remains unpaid by the accused, present proceedings are initiated by the complainant against present accused under Section 138 of the Negotiable Instrument Act.
- 12.** At the outset, it is required to be noted that no iota of evidence is produced by the complainant with respect to the alleged transaction of sum of Rs.35,45,000/-. There is no material to show as to on which date, what amount, by what mode the Complainant had loaned such huge sum to the accused. No particulars whatsoever has been presented by the complainant with respect to the alleged transaction of Rs. 35 lac.

13. Now if we peruse the cross-examination of the complainant, then he admitted that he is engaged in the work of Insurance Advisor and he receives his income by way of commission. He further admitted that in the year 2023, out of insurance commission he had received income of Rs.5,00,000/-. Complainant further admitted that he has taken no receipt with respect to having lended any such amount to the accused. He further admitted that he has not even shown amount advanced by him to the accused in his income tax returns and hence, he has not even produced Income Tax Returns before the Court. He further admitted that he has no evidence to show the alleged debts. He further admitted that he had also lodged complaints against other entities for cheque bounce, wherein also the issue was regarding hand loan.
14. Thus, in light of aforesaid evidence on record, what appears is that complainant is working as an Insurance Advisor and earning sum of Rs.5,00,000/- per year. However, no documentary evidence is produced by the complainant to show his income. Admittedly no ITR are produced by the Complainant. It has to be noted that sum of Rs.35,45,000/- is very huge amount. In order to give such huge amount of loan to the accused, certainly complainant ought to have such financial capital. The financial capacity of the Complainant would be reflected from the Capital reflected in the balance sheet. Any amount loaned by the Complainant would be reflected in the Balance Sheet and person to whom such loan is given would be shown as 'Sundry Debtor'. However, as admitted by the Complainant, he has not shown the present transaction in his Accounts.

15. Now admittedly neither there is any document to show that Complainant had actually given such huge amount of loan of Rs. 35 lac to the Accused, nor there is any evidence to even show that complainant had that much financial capital. Moreover there are no particulars stated by the complainant with respect to the alleged transaction of Rs.35 lac. The transaction is also not reflected in ITR of the Complainant. In such situation, the entire case of the Complainant comes under serious clouds.
16. At this juncture i may refer to the decision of Bombay High Court in case **Sanjay Mishra Vs. Ms. Kanishka Kappor @ Nikki**¹ wherein the High Court, held that when big sum of money is advance by the Complainant to the Accused, then not disclosing the same in book of account would be sufficient to rebut the presumption. Similar view is also taken by the Delhi High Court in case of **Kulvinder Singh v. Kafeel Ahmed**² wherein it is held that not reflecting loan in books of account would create doubt regarding the truthfulness of the loan.

1 Sanjay Mishra Vs. Ms. Kanishka Kappor @ Nikki and Another - 2009 CRLJ 3777

7. It is true that merely because amount advanced is not shown in Income Tax Return, in every case, one cannot jump to the conclusion that the presumption under Section 139 of the Act stands rebutted. There may be cases where a small amount less than a sum of Rs.20,000/- is advanced in cash by way of loan which may be repayable within few days or within few months. A complainant may not show the said amount in the Income Tax Return as it is repayable within few days or few months in the same financial year. In such a case the failure to show the amount in the Income tax Return may not by itself amount to rebuttal of presumption under Section 139 of the said Act. If in a given case the amount advanced by the complainant to the accused is a large amount and is not repayable within few months, the failure to disclose the account in Income Tax return or Books of Accounts of the complainant may be sufficient to rebut the presumption under Section 139 of the Act

2 Kulvinder Singh Petitioner v. Kafeel Ahmed – 2013 SCC Online DEL 34

7. [.....] He has not reflected the loan advanced to the respondent in his income- tax return nor is he able to tell to the court the Ward in which the income-tax return is filed. The learned Magistrate has rightly placed reliance on the provisions of Section 269 SS of the Income-Tax Act wherein it is specifically laid down that if a loan is advanced which is more than `20,000/-, it has to be by way of writing reflected in the books of account but nothing of that sort has been done in the instant case. Obviously, this clearly creates a doubt regarding the truthfulness of the stand taken by the petitioner that he had advanced a loan of `9,30,000/- to the respondent.

17. In **Devender Kumar vs. Khem Chand**³, the Delhi High Court even held that adverse inference should be drawn if the loan amount is not disclosed in ITR.
18. At this stage I may also refer to the decision of Hon'ble Apex Court in case of **APS FOREX SERVICES**⁴ which holds that whenever the accused questions the financial capacity of the complainant in support of his probable defense, then despite the presumption under Section 139 of the N.I. Act about the presumption of legally enforceable debt, it is incumbent upon the complainant to prove his financial capacity, especially when it is a case of giving loan by cash and thereafter issuance of a cheque. In the present case, besides the fact that there is no evidence to show as to when and how such huge sum was given by the Complainant to the Accused, there is also no evidence to show that Complainant was even seized of that much funds. This is in addition to the fact that such loan transaction is even not reflected in the ITR of the Accused.

3 Devender Kumar v. Khem Chand 2015 (223) DLT 419

13. The petitioner is admittedly an Income Tax Assessee but he has not shown the advance of loan to the respondent in his Income Tax Return (for short „ITR“). The petitioner could not produce his ITR for the year 2008-2009 and no mention of the loan to the respondent in ITR for the year 2009-2010, permits of drawing an adverse inference against the petitioner.

22. Keeping the above proposition of law in mind, on an analysis of fact, the scale of balance tips in favour of the respondent. The respondent appears to have rebutted the presumption under Section 139 of the NI Act, namely, the existence of a legally enforceable debt by establishing that no loan was advanced to him even though there was an agreement and a corresponding promissory note and an affidavit. The aforesaid loan was not shown in the ITR return of the petitioner. An adverse inference could be drawn against the petitioner on that account. The loan amount also appears to be doubtful.

4 Aps Forex Services Pvt. Ltd. Vs. Shakti International Fashion Linkers –AIR 2020 SC 945

15 We are of the view that whenever the accused has questioned the financial capacity of the complainant in support of his probable defence, despite the presumption under Section 139 of the N.I. Act about the presumption of legally enforceable debt and such presumption is rebuttable, thereafter the onus shifts again on the complainant to prove his financial capacity and at that stage the complainant is required to lead the evidence to prove his financial capacity, more particularly when it is a case of giving loan by cash and thereafter issuance of a cheque.

19. Complainant has relied upon one letter of undertaking (Exh.12), wherein it is alleged that the accused has acknowledged his liability to pay sum of Rs. 35.45 Lac to the complainant. However, as held by the Delhi High Court in case of **Devender Kumar** (supra), if the loan transaction is not shown in the ITR, then irrespective of any agreement or promissory note executed between the parties, such loan transaction cannot be believed. It is also pertinent to note that the said undertaking (Ex. 12) is handwritten document. The same is neither notarized nor the same is executed on any revenue stamp. There are two signature at the bottom, wherein no name of its signatory are mentioned. The Complainant in his chief-examination at Paragraph 9 has made casual reference to the said document Ex. 12, without identifying and proving the signature on the document Ex. 12 as required under Section 67 of the Evidence Act.⁵ The alleged witness who had signed the said document is also not examined. There is also no evidence as to who had hand-written the document Ex. 12. Hence, it cannot be said that document Ex. 12 has been proved in accordance with law.

5 Evidence Act – Section 67. Proof of signature and handwriting of person alleged to have signed or written document produced. —

If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting

Bank Of Baroda v. Shree Moti Industries, 2008 AIR BOM 201

20. The mode of proving the contents of the documents has been dealt with in sections 61 to 66. As already stated hereinabove mere production of the documents purporting to have been signed or written by certain persons is no evidence of its authorship. It is necessary to prove their genuineness and execution. Proof, therefore, has to be given of the handwriting, signature and execution of a document. No writing can be received in evidence as a genuine writing until it has been proved to be a genuine one, and none as a forgery until it has been proved to be a forgery. A writing, by itself, is not evidence of the one thing or the other. A writing, by itself, is evidence of nothing, and therefore is not, unless accompanied by proof of some sort, admissible as evidence.

20. It is pertinent to note that it has come on record that complainant has also initiated similar legal proceedings against other persons regarding dishonor of cheque, with respect to transactions of hand loan. Thus, on one hand what appears is that the complainant is going on filing cheque bounce cases with respect to friendly hand loan and on the other hand, the complainant has no evidence whatsoever either to show his financial capacity/capital or even the proof with respect to such loan transactions. This specifically goes to show that Complainant is somewhat engaged in illegal money lending business.
21. In cases involving Cash Loan Transaction two aspects have to be clearly born in mind i.e. (i) Whether the Complainant has Financial Capacity ; and (ii) Whether the Money is Accounted Money or Unaccounted Money. It is required to be noted that today illegal money lending transactions has become menace in the society. By lending small amount of money, horrendous interest are charged, virtually wiping out and squeezing out the borrowers. There is Gujarat Money Lenders Act in force which prohibits unauthorized money lending business. Despite such Act being in force, it is often observed that most of the Cheque bounce cases are in relation to cash loan transaction only. Such cash loan transactions are neither reflected in the books of account, nor the person giving such cash loan is able to show official existence of such cash amount with him. Notice can be taken of the fact that through such cash loan transactions unaccounted black money / tainted money is being circulated in the market.

- 22.** By giving loan in cash and taking Cheque in return is a way of converting black money into white money and thereby projecting it as untainted money. Such transaction run afoul to the provisions of Money Laundering Act. Such transactions are in boom for which even the State Government has taken severe cognizance and necessary police actions are also taken against such illegal money lending transaction. Such unauthorized loan transaction out of unaccounted money entails severe peril to our economy, as it is brings into circulation proceeds of crime in the Economy. It is parallel economy which effects the financial stability and security of the Country.
- 23.** I am required to make such observation because now a days the Courts are coming across umpteen Cheque Bounce Cases involving huge cash loan transaction, wherein neither there is any source of income, no books of accounts are maintained, no date or particulars of such transactions are mentioned, and in almost all the cases there are stereo type version of having close friendly relationship. It is already known that today there is huge pendency of cheque bounce cases. Even the Apex Court has time and again observed the issue of pendency fo cheque bounce cases. Moreover, there is huge in-flaw of cheque bounce cases involving such cash loan transaction. This cannot be permitted to go on like this. Section 138 proceedings would in effect become tool for money laundering. This is very alarming situation and requires serious actions. The Ld. Trial Court has very rightly rejected the Complainant and has referred the matter to the Income Tax Department. I totally concur with the view of the Ld. Trial Court.

24. I have perused the impugned Judgment passed by the Ld. Trial Court. The Ld. Trial Court has very minutely appreciated the evidence on record and has also observed that there are numerous contradictions even with respect to loan amount as well as conduct of the parties. I do not find any kind of illegality committed by Ld. Trial Court in acquitting the accused.
25. The Ld. Trial Court has passed the order directing the matter to be referred to the Income Tax Department for necessary cognizance and action on their part. I find such direction totally justified. I would further add that the present issue would also falls within domain of Gujarat Money Lenders Act and hence, present proceedings are also required to be referred to the Commissioner of Police, Godhara for taking necessary cognizance in this regard.
26. Hence, in view of aforesaid facts and circumstances, I am of the view that the impugned Judgment and Order passed by the Ld. Trial Court does not call for any interference and the present appeal being devoid of any merits the same deserves to be rejected. Hence, in view of aforesaid facts and circumstances, I pass the following final order :-

O R D E R

- A) The present Appeal is hereby **REJECTED with COST.**
- B) The impugned Judgment and Order of Acquittal passed by the Court of Ld. Additional Chief Judicial Magistrate, Halol in Criminal Case No.3785/2023 dated 30.01.2026 is hereby **Confirmed.**
- C) The copy of impugned Judgment and Order passed by Ld.

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Trial Court be sent to Income Tax Authority as well as to the Commissioner of Police, Panchmahal at Godhra, along with copy of this judgment also.

D) R & P of Criminal Case be send back to the Ld. Trial Court along with the copy of this Judgment.

JUDGMENT DICTATED, SIGNED AND PRONOUNCED IN
OPEN COURT TODAY ON 1ST OF APRIL, 2026.

Place : **Halol.**

Date : 01.04.2026

Navil

(Vivek N. Mapara)
Additional Sessions Judge,
Panchmahals at Halol
(Unique ID Code: GJ01589)