

**ORDER BELOW EX.1 IN**  
**CRIMINAL APPEAL NO.84 OF 2024**

1. The present appeal has been filed by the appellant challenging the Judgment & order of conviction U/s 138 of the Negotiable Instrument Act - 1881 dated 9/5/2024 passed by the learned Judicial Magistrate First Class, Chanasma in Criminal Case No.87/2019. However, during pendency of the present appeal, the parties have filed purshish vide Ex.17 stating that the matter has been compromised between them and there remains no dispute with regard to any amount. Thus, as the matter is compromised, it is prayed to set aside the impugned Judgment and order of the Ld.Trial Court and acquit the appellant.

2. Since the matter has been compromised between the parties, it would be justifiable to dispose off the matter and set aside the impugned Judgment and order passed by the Ld.Trial Court convicting the appellant. In view of the above submissions of the parties, considering the principles and guidelines laid down by the Hon'ble Supreme Court in the case of **Damodar S. Prabhu V/s. Saiyab Babalal H. in Criminal Appeal No.963/2010**, which is as under:

"It is true that the application U/s 147 of the N.I.Act was made by parties after the proceedings had been concluded before the appellant forum. However, sec.147 of the aforesaid act does not bar the parties from compounding an offence u/s 138 even at the appellant stage of the proceeding."

The Hon'ble Supreme Court has given following guidelines in the above referred judgment:

In the circumstances, it is proposed as Follows :

(A) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an

application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any cost on the accused.

- (B) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the legal Service authority, or such authority as the court deems fit.
- (C) Similarly if the application for compounding made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 5% of the cheque amount by way of costs.
- (D) Finally, if the application for the compounding made before the Supreme Court, the figure would increase to 20% of the cheque amount.

The Hon'ble Supreme Court has further directed that:-

"Even though the imposition of the 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."

3. Thus, in view of the above referred judgment of the Hon'ble Supreme Court, the parties can file application seeking compromise before the appellate court at any stage of the appeal and the appellate court can grant such application for compromise U/s 147 of the N.I.Act and acquit the accused. Hence, in the interest of justice, I pass the following order:

**-:: ORDER ::-**

1. Present Criminal Appeal is hereby disposed off as compromised with no order as to cost U/s 147 of N.I.Act.
2. The Judgment & Order of conviction passed on 9/5/2024 by the learned Judicial Magistrate First Class, Chanasma in Criminal Case No.87/2019 is hereby set aside.
3. The Appellant/Accused is hereby acquitted from the charges levelled against him.
4. The 20% amount deposited by the appellant/accused shall be paid to the appellant/accused as per order passed by this court dated 24/6/2024, if any.
5. Bail bond of the accused stands discharged.
6. Ad-interim relief, granted if any, shall stand vacated.
7. Appellant/accused is hereby waived from paying compounding charge.
8. Fine, if any paid by appellant/accused, same shall be refunded to him after proper verification.
9. Record & proceedings, if any, be transmitted back to the Court concerned.
10. Applications pending, if any, shall stand disposed off accordingly.

11. Yadi of this order be made accordingly.

Signed & pronounced in today's Lok-Adalat.

Date:01/08/2026

Place:Patan

VSS

[Mahammadirfan A. Shaikh]  
3<sup>rd</sup> Addl.Sessions Judge, Patan  
U.I.Code No.GJ00892