

GJSK010013472026 	Presented on	:	25.05.2026		
	Registered on	:	25.05.2026		
	Decided on	:	06.06.2026		
	Duration	:	00	00	12
			Year	Months	Days

**IN THE SESSIONS COURT
SABARKANTHA AT HIMMATNAGAR**

Criminal Appeal No. 335/2026

Exh. _____

Appellant: **Rohitkumar Pathubhai Khokhariya**
Aged about : 43 years, Occupation : Labour,
Resi. of : Sitol, Ta.: Khedbrahma,
Dist.: Sabarkantha.

// VERSUS //

Respondents: (1) **Authorized officer of
Nalin Lease Finance Ltd.
Mayur Prafulchandra Thakar**
Aged about : 42 years, Occupation : Service,
Resi. of : Gandhi Nursing Home Building,
Dr. Nalinkant Gandhi Road,
At & Po. Ta.: Himmatnagar,
Dist.: Sabarkantha.

(2) **The State**

**CRIMINAL APPEAL UNDER SECTION 415 OF
THE BHARTIYA NAGARIK SURAKSHA SANHITA, 2023.**

Appearance:

Learned advocate Mr. S. C. Solanki for the Appellant.
Learned advocate Mr. R. V. Sharma for the Respondent No.1.

:: J U D G M E N T ::

01. This appeal filed under Section 415 of B. N. S. S. challenging the judgment and order of conviction recorded by learned 5th **Additional Chief Judicial Magistrate, Himmatnagar**, in **Criminal Case No. 5931/2025**, dated **04.05.2026**, whereby the learned Trial Court convicted the appellant/accused for the offence punishable under Section 138 of N.I. Act and ordered to undergo simple imprisonment for **1 Year** and also ordered to pay amount of **Rs.45,106/-** towards compensation. In default thereof, the appellant/accused is ordered to suffer further **3 Months** simple imprisonment.
02. It would be suffice that parties were involved in monetary transaction and dispute had arisen on account of dishonor of the cheque. Thereafter, complainant issued notice and preferred Criminal Case before the learned Trial Court under Section 138 of the N.I. Act and in that Criminal Case, after leading the evidence and appraising them, learned Trial Court reached the conclusion that complainant had satisfactorily proved the commission of offence by the accused and therefore, learned Trial Court convicted accused and imposed punishment, as noted herein above.
03. This result gives rise to the present appeal.
04. During the hearing of this appeal, the parties have submitted before this Court that they have arrived at

amicable settlement to the dispute. Appellant, who is original accused and respondent No.1, who is original complainant, have submitted compromise pursis, vide **Exh.14** and declared before the Court that they have arrived at amicable settlement. It is declared by the appellant / accused that he has paid-up the entire outstanding amount of cheque and the same has been confirmed by the respondent No.1. The compromise pursis has been duly signed by both the parties as well as their learned advocates, they have admitted the contents of the compromise pursis and as such, the respondent No.1/complainant has fairly compounded the offence against the accused. The appellant-accused has submitted that considering his weak financial condition, the compounding charges may be waived.

05. Since the parties have reached the amicable settlement during the first appeal and prayed for compounding of the offence, keeping in mind Section 147 of the N.I. Act and law laid down by the Hon'ble Supreme Court in case of ***Damodar S. Prabhu Vs. Sayed Babalal*** H.2010(5)SCC 663, I permit the parties to compound the offence at appellate level.
06. It is an admitted position that as per the case of ***Damodar (supra)***, if compounding of offence under Section 138 is made at the appellate stage, the compounding charge is required to be levied. It is further observed that;

"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."

This vests discretion in the Court to consider the circumstances for determination of amount of costs.

The question of imposition of costs arises from tweaking or modifying the rate of imposition of costs by Honourable Supreme Court in *Sanjabij Tari V/s Kishore Borcar & Anr., Criminal Appeal bearing No. 1755 of 2010* in following terms;

"38. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this Court is of the view that it is time to 'revisit and tweak the guidelines'. Accordingly, the aforesaid guidelines of compounding are modified as under:-

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.

(c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount."

This modification is in terms of reduction of rate only, but still, the power given in *Damodar Prabhu (infra)* judgment as regards reduction of the amount of costs kept intact

considering the specific facts and circumstances. The first glaring circumstance is that this is the National Lok Adalat and the accused wanted to have total mercy by imposing zero-cost. This plea has further been seemed to be reasonable as the accused herein is coming from very poor strata of the society and unable to bear even the payment of the amount specified in the cheque in question. However, considering the positive attitude of both the parties to settle the matter in the Lok Adalat and with the intention of encouraging other parties also to settle their matters through the Lok Adalat, I am inclined to almost waive and keep the amount of costs bear minimum to the tune of Rs. 100/- (Rupees one hundred only) in the interest of justice.

07. In this backdrop, following final order is passed :

:: FINAL ORDER ::

01. The present appeal filed under Section-415 of B.N.S.S. stands hereby allowed.
02. The judgment and order of conviction recorded by the learned 5th Additional Chief Judicial Magistrate, Himmatnagar in Criminal Case No. 5931/2025, dated 04.05.2026, is hereby quashed and set aside and appellant/accused – Rohitkumar Pathubhai Khokhariya is hereby acquitted from the charges levelled against him subject to payment of costs to the tune of Rs. 100/- (Rupees one hundred only) in District Legal Services Authority, Himmatnagar within one week from the date of

Permanent Lok Adalat.

03. Accused is set at liberty, if not required for any other offence.
04. Bail bond taken during pendency of the present appeal stands cancelled.
05. If any amount of fine/deposit is paid by the appellant, it is to be refunded to the appellant after due verification.
06. Copy of this judgment be sent to the learned Trial Court. R&P be sent back to the learned trial court, if call for and received.

Pronounced in Permanent Lok Adalat, on this 6th day of June, 2026.

(K. R. Rabari)
Sessions Judge
Sabarkantha at Himmatnagar
Unique ID : GJ00477
(Permanent Lok Adalat)

K_J_P