

GJSK180001042026



IN THE COURT OF
THE 2nd ADDITIONAL SESSIONS JUDGE,
SABARKANTHA AT IDAR.
Criminal Appeal No.12/2026
Exh.:11

APPELLANT :- **Janakbhai Kanjibhai Chaudhary**
(ORIGINAL Aged about : 49, Occupation:- ,
ACCUSED) Resi. Of:- Sundarpur, Post:- Kasbo, Taluka:-
Idar, District:- Sabarkantha

Vs.

RESPONDENT:- **The Secretary of Sundarpur Gamni Seva**
(ORIGINAL **Sahkari Mandali Ltd namely Chaudhary**
COMPLAINANT) **Dahyabhai Devajibhai**
Aged about : 74 years,
Occupation:-
Resi. Of: Sundarpur,
Taluka:- Idar ,District:-Sabarkantha

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Appearance:

Mr. P. A. Gurjar **Learned Advocate for the Appellant**
Mr. G. I. Kumpavat **Learned Advocate for the Respondent**
& Mr. R. S. Devda

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

:: JUDGMENT ::

1. The present appeal has been preferred by the appellant/
original accused with a prayer to quash and set aside the
impugned judgment passed in **Criminal Case No. 5263/2021**

on dated 05.01.2026 by the Additional Judicial Magistrate First Class, Idar by which the appellant-accused has been convicted for the offence punishable under section 138 of the N.I. Act and sentence to undergo simple imprisonment **One Year** and fine of cheque amount. Upon deposit of fine amount, it is hereby ordered to pay compensation of **Rs. 11,13,516/- (Rupees Eleven Lakh Thirteen Thousand Five Hundred and Sixteen Only)** to the complainant. In default thereof, the accused is ordered to suffer further **Two Months** simple imprisonment.

2. The Ld. Advocate of the original complainant and the Ld. advocate of the accused as well as both the parties have appeared before this Court and gave compromise pursis vide **Exh.7** and made request that the dispute between them has been settled, so they may be granted permission for purpose of compromise in this matter. The full amount has been given by the appellant-original accused to the respondent -original complainant and no any due amount is remaining and the matter has been settled. Both the parties and Ld. Advocate for accused and complainant have admitted the contents of the **Exh.7**, so it becomes very clear that the matter has been settled, therefore, the permission has been granted for purpose of compromise. The parties are present and their Ld. Advocates are also present and they have admitted that the appellant has paid the amount of cheque to the original complainant-respondent and the dispute between the parties have been settled and they have also admitted their signatures.

3. Considering the above facts, it becomes very clear that the matter has been settled finally without any pressure and the parties have settled their dispute willingly, and therefore, the compromise is hereby accepted and request made by the parties to this Court to quash and set aside the order passed in **Criminal Case No. 5263/2021 on dated 05.01.2026 by the Additional Judicial Magistrate First Class, Idar** is hereby accepted.
4. Considering the decision of the *Hon'ble Supreme Court in the case of the Damodar S. Prabhu Vs. Sayed Babala H. (2010) 5 SCC 663*, the appellant is permitted to compound the offence under section 138 of the Negotiable Instruments Act, for which he has been punished and convicted.
5. 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.
6. The question of imposition of costs arises from tweaking or modifying the rate of imposition of costs by Hon'ble Supreme Court in Sanjabij Tari Vs. Kishore Barcare & 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."

7. This modification is in terms of reduction of rate only, but still, the power given in **Damodar Prabhu** judgement as regards reduction of the amount of costs kept intact considering the specific facts and circumstances. The first glaring circumstances is that this is the National Lok Adalat and the accused wanted to have total mercy by imposing zero-cost. This plea has further 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.

8. In this backdrop, following final order is passed:-

:: ORDER ::

1. This **Criminal appeal No. 12/2026** is hereby allowed.
2. The impugned judgment and order passed in **Criminal Case No. 5263/2021 on dated 05.01.2026 by the Additional Judicial Magistrate First Class, Idar** is hereby quashed and set aside **subject to payment of costs to the tune of Rs. 100/- (Rupees One Hundred only) in Taluka Legal Service Authority, Idar within one week from the date of Lok Adalat** and consequently, the appellant-accused is hereby ordered to be acquitted for the charge under Section 138 of the N. I. Act.
3. The fine/compensation, if any paid or deposited by the appellant/accused to be returned to him after the expiry of the period of appeal.
4. R & P, if any, be sent back to the Trial Court with copy of the order of this Court.
5. Bail and bond hereby stands cancelled.

Signed & Pronounced in the Permanent Lok Adalat today on **18th day of July- 2026.**

Place: Idar.
Date:- 18.07.2026

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(M.Y.RADHANPURWALA)
2nd Additional Sessions Judge
Sabarkantha at Idar.
Code No. GJ-00734