

GJSN030000772021



Presented on : 25-01-2021
Registered on : 25-01-2021
Decided on : 10-08-2026
Duration : 5 years, 6 months, 16 days

**IN THE COURT OF
ADDI CIVIL JUDGE & J.M.F.C
AT LIMBDI,SURENDRANAGAR
(Presided Over by MR.M.R.TRIVEDI)**

CC/60/2021

Complainant(PROSECUTION):
JAYRAJSINH BHARATSINH ZALA
RAJKOT, JIVRAJPARK, AMBIKA TOWNSHIP
LIMBDISURENDRANAGAR

VERSUS

Accused:
GHUGHABHAI VIBHABHAI SOHALA
Age: 32 Occupation :
RAJKOT, CHAMUNDAPARK, GAUTAMNAGAR SHERI No.4/5
B/H.MARUTI HALL, 80 FEET ROAD, GANDHIGRAM, RAJKOT

Advocate for Complainant : Mr. N.D.JANI,
Accused not served.

**Offence punishable under : 138, of NEGOTIABLE
INSTRUMENTS ACT, 1881,**

ORDER BELOW EXHIBIT - 1

The present complaint has been filed by the complainant u/s 138 of Negotiable Instrument Act. The process has been issued to the accused and the same has been returned unserved. Going through the record of the case, it seems that since the inception of the present complaint the complainant has failed to secure the presence of accused. The process has been returned

unserved with endorsement that "the person named in process does not reside at the address" which is on record.

It is needless to say that since the present case is private complaint, it is the duty of the complainant to secure the presence of accused. But here in present case since last 05 years the complainant has measurably failed for the same. Therefore, this court has issued notice to the complainant. On 29/05/2026 he complainant remained present and sought adjournment which was granted. But today, the complainant has neither remained present before the court nor the previous order has been complied with.

As per section 309 of CrPC it is discretion of the court that if such reasons, the court thinks proper to adjourn the hearing of the case to some other day. It is well settled principal that there must be an end to a litigation. The Hon'ble Gujarat High Court in case of **BHAVANI TEXTILES MILLS, THRO' PROPRIETOR MAGRAJBHAI GENSINH- STATE OF GUJARAT & 2 others**¹ it was held that in case the complainant defaults in remaining present and proceed with the case, it is right to dismissed the matter in default. The record of the present case is more than 05-year-old and the case is at the stage process to accused. Today also the complainant has not remained present. Therefore; as facts and circumstances discussed above, this court do not find any lawful reason to adjourn the hearing of the present matter. Therefore, in the interest of justice the following order is passed.

ORDER

- The present complaint is dismissed for default.

Date: 10/08/2026.

Limbdi

MOHIT R. TRIVEDI

Addl. JMFC, Limbdi

(Judge code - GJ01575)