

CR. A. No.398/2023

Order Below Ex. 1

(1) Present appeal emanates from the judgment dated - **04/05/2023** passed by learned **13th Addl. Chief Judicail Magistrate Court, Surat** in Criminal Case No. **33559/2022** whereby the Appellant/original Accused has been convicted for the offence punishable under Section 138 of the Negotiable Instrument Act.

(2) Parties and their respective Advocates have submitted **compromise pursis at Exh.18** It is submitted that, matter has been amicably settled between the parties. The cheque amount has been received by the Respondent/Complainant in that respect pursis at **Exh.18** is produced. Further, the parties and their Advocates have submitted that, this compromise has been taken place voluntarily and the parties have admitted their signatures in the compromise pursis and identified by the learned Advocates of the respective parties. It is further submitted that complainant has no objection if impugned order of sentence and compensation be set aside.

(3) It is not in dispute that the questioned cheque was given by the present Appellant/Accused, to the Respondent/original Complainant and same was dishonoured. Now the said dispute is amicably settled and it is not in dispute that present Appellant/Accused has paid cheque amount to the Respondent/original Complainant. Considering the facts, the parties are arrived at settlement and Respondent/original Complainant has no objection if the present appeal is allowed by setting aside the impugned order. Therefore, I passed following order.

ORDER

- The order of conviction, sentence and compensation dated- **04/05/2023** passed by the Ld. Trial Court, Surat in Criminal Case No- **33559/2022** is hereby set aside.

- The Appellant/original Accused- **Gopal Mohanbhai Lohiya** is hereby ordered to be acquitted from the offence u/s.138 of the Negotiable Instrument Act.
- If any interim order passed at the time of suspension of sentence, the same stands vacated.
- Bail-Bond of the accused stands cancelled.
- If R & P be called for than sent back to the concern Ld. Trial Court.
- Copy of this order be sent to the Ld. Trial Court for necessary action.

Pronounced today on 9th March, 2024 in the National Lok Adalt at Surat.

(D.S.JOSHI)
14th Addl. Session Judge,
Surat.
UIC No. GJ 00817