

**ORDER BELOW EXH. 1 IN
CRIMINAL APPEAL NO. 385 OF 2022**

[1] The parties have produced Compromise Pursis at Exh. 8 before this Court stating that the compromise has been arrived at between the parties and the appellant has paid Rs. 2,50,000/- to the respondent. The parties have filed purshis at Exh. 11 stating that they have no objection if 20% of the fine amount i.e. Rs. 66,520/- deposited before the Court by the appellant is given to the respondent. The parties have prayed to record the settlement and have no objection if the order of conviction and sentence passed against the appellant by the Ld. Trial Court is set aside.

[2] As per the guidelines issued in the case of **Damodar S. Prabhu V/s. Sayed Babalal H. reported in 2010(5) SCC 663**, if the offence is compounded before the Sessions Court, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of cost. It is held by the **Hon'ble Apex Court in the case of Madhya Pradesh State Legal Services Authority Vs. Prateek Jain, reported in 2014(1) SCC 690** that when a case is decided in Lok Adalat, the requirement of following the guidelines laid down in Damodar S. Prabhu should normally not be dispensed with. However, if there is a special/specific reason found to

reduce the cost by imposing minimal costs or even waiving the costs, the concerned Court can be convinced for the same. Here, in the present case, it is submitted on behalf of the appellant that the financial condition of the appellant is not good and therefore, the Ld. Advocate for the appellant has prayed to allow the compounding of offence by waiving costs. Hence, considering the facts and circumstances of the present case and the fact that the matter is settled in the Lok Adalat, I have found it just and proper to waive the costs of compounding charge of compounding offence. In view of the compromise pursis, the impugned Judgment and Order of conviction passed by the Ld. 18th Addl. Chief Judicial Magistrate, Surat, in Criminal Case No. 21352/2018 is required to be quashed and set aside. Hence, the following order is passed.

:- O R D E R :-

1. The present Appeal is disposed of and the parties are permitted to compound the offence u/s. 138 of the Negotiable Instrument Act without imposing any costs.
2. Judgment and Order dated 12.11.2021 passed by the Ld. 18th Addl. Chief Judicial Magistrate, Surat, in Criminal Case No. 21352/2018, is hereby quashed and set aside

and the appellant stands acquitted of the offence u/s. 138 of the Negotiable Instruments Act.

3. The 20% of fine amount i.e. Rs. 66,520/- which is deposited by the appellant before the Registry is hereby ordered to be given to the respondent after due verification.
4. A copy of this Order be sent to the Trial Court along with the R&P, if any.

Disposed today on this 12th day of November, 2022,
in the Lok Adalat.

Date : 12.11.2022
Place : Surat.

(Vimal Kanaiyalal Vyas)
Sessions Judge, Surat.
Code No. **GJ00383.**

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