



**IN THE COURT OF 5TH ADDITIONAL DISTRICT & SESSIONS
JUDGE AHMEDABAD (RURAL) AT MIRZAPUR, AHMEDABAD.**

Criminal Appeal No.94 of 2022

Sharad Sitaram Gupta

Age : 37 years, Occupation : Service

R/o J-1104, Sorel Tower, Near Dekathalon,
Applewood Township S.P. Ring Road,
South Bopal, Ahmedabad.

....Appellant.
(Orig. Accused)

VERSUS

1. The State of Gujarat

2. Sanket S. Shah

R/o 2-D, Samarpan Apartment,
Near Cadila Bridge, Ghodasar, Ahmedabad.

....Respondents.
(Respondent No.2 Orig. Complainant)

Appearances:-

Learned Advocate Mr.V.P.Barot for the Appellant.
Learned APP Mr.A.M.Gulabani for the Respondent No.1-State
Learned Advocate Mr.S.R.Golchha for the Respondent No.2.

-.: ORDER BELOW EXH.1:-

1. Today the present matter is taken up in National Lok-Adalat.
2. Present appeal has been filed by appellant-original accused to challenge the order of Ld. Judicial Magistrate First Class, Ahmedabad (Rural) (herein after referred as "Ld. trial court") dated 09.11.2022 passed in Criminal Case No.4465/2017 (herein after referred as impugned order), whereby Ld. trial court had held Appellant guilty for committing the offence under Section 138 of Negotiable

Instruments Act and sentenced appellant with simple imprisonment of one year and compensation of Rs.10,00,000/- i.e. the cheque amount, along with interest at the rate of 6% to be paid by the appellant to the original complainant within 30 days of the impugned order.

3. Feeling aggrieved from the impugned order appellant preferred present appeal to challenge the impugned order and at the time of hearing the bail application and the stay application, this court vide order dated 25.11.2022 passed below Exh.5 & 7 had ordered to deposit Rs.2,00,000/- i.e. 20% of cheque amount with the concerned Nazir branch within 15 days from the date of said order and furnish the bail bond of Rs.10,000/- along with one surety of the like amount, and the order has been complied by present appellant.
4. Ld APP for the state appeared on behalf of Respondent No.1 and waives service of notice. In pursuance of service of notice to the Respondent No.2, Ld. Advocate Mr. S.R.Golcha appeared and filed his Vakalatnama.
5. Record and proceedings of concerned Trial court have also been called for by this court.
6. During the course of proceedings of the present matter, parties have shown their willingness to settle this matter and with the intervention of the court parties agreed to settle the same. Matter was also referred for exploring the possibilities of settlement to the mediation center of Ahmedabad District Court and vide Exh.11 parties have placed on record the settlement pursis, but, since all the terms have not been mentioned in the same, parties have placed on record another settlement pursis vide Exh.12 wherein, it is mentioned that parties are compounding the present matter for an amount of Rs.11,00,000/- and out of the settled amount of Rs.11,00,000/-, Rs.9,00,000/- have been paid by the appellant to the Respondent No.2-original complainant by

way of two cheques and appellant has no objection if Rs.2,00,000/- already deposited by the appellant in compliance of order of this Court passed below Exh.5 & 7, is disbursed to the Respondent No.2 herein.

7. Ld. APP appearing for state submitted that state is a formal party in present matter and appropriate order as per law may kindly be passed.
8. Ld. advocates for the parties appeared alongwith parties in person and confirmed the contents of settlement terms and payment vis a vis receiving of settlement amount by respective parties.
9. I have heard the Ld. advocate for the parties and have perused the entire judicial record including trial court record and proceedings, settlement pursis Exh.11, pursis submitted vide Exh.12 & 13.
10. As per records, one complaint had been filed against the present appellant for the offence punishable under Section 138 of Negotiable Instruments Act as the cheque for an amount of Rs.10,00,000/- issued to the Respondent No.2 returned back dishonored and after the complete trial of the said complaint, present appellant was held guilty for committing the said offence. Present appeal had been filed by the appellant - original accused person to challenge the impugned order. During the proceedings of the present appeal parties settled their dispute for an amount of Rs.11,00,000/- and out of which Rs.2,00,000/- had already been deposited by appellant with the concerned nazir branch of this Court in compliance of Order passed below Exh.5 & 7 and an amount of Rs.9,00,000/- has been received by the Respondent No.2 by way of two cheques issued by appellant in favour of Respondent No.2 and parties appearing with their Ld. Advocates confirmed the factum of compounding/settlement and prayed to set-aside the impugned judgment and order of the Ld. trial Court and to acquit appellant from the charges leveled against him.

11. Considering the judgment of Hon'ble Apex Court in the matter titled as **Damodar S. Prabhu Vs. Saiyed Babalal H., 2010(2) SCC (Crl.) 1328, MP Legal Services Vs. Pratik Jain & Anr., 2014 SCC, M/s Meters and Instruments Private Limited and another Vs. Kanchan Mehta 2017(7) Supreme 558, Suo-moto Writ Petition(Crl.) No.2 of 2020, Gimpex Prvicae Limited Vs. Manoj Goel, 2021 SCC Online SC 925**, this Court is of the view that interest of justice would meet if complaint is disposed as settled/compounded in the present Lok Adalat and the nominal cost is imposed on the appellant.

12. Therefore, considering the facts and circumstances of the present matter, submissions of Ld. Advocate for the parties, entire judicial record and judgments of Hon'ble Apex Court and Hon'ble High Court more particularly in this regard, this court is of the view that present matter deserves to be disposed of as settled in Lok Adalat, hence, I pass the following final order in the interest of justice:-

∴ ORDER ∴

- Criminal Appeal No.94 of 2022 is hereby **disposed of as settled/compounded/compromised in Lok-Adalat.**
- Order and judgment of Ld. Judicial Magistrate First Class, Ahmedabad (Rural) dated 09.11.2022 passed in Criminal Case No.4465/2017 is hereby set-aside and quashed.
- Conviction and sentence U/S 138 of NI Act in complaint Case no.4465/2017 stands annulled and appellant stands acquitted from the charges/offences.
- Amount of Rs.2,00,000/- deposited by the Appellant before the concerned Nazir branch in compliance of order dated 25.11.2022 passed by this Court, be released alongwith the interest accrued

thereupon, if any, in favour of Respondent No.2 upon proper identification.

- Appellant shall deposit cost of Rs.2000/- with the office of the DLSA within 15 days of the present order.
- Bail bonds stand cancelled and sureties are discharged.
- Trial court record and proceedings be sent back alongwith the copy of this order.

Present Criminal Appeal stands disposed of accordingly.

File be consigned to record room after due compliance.

Signed & Pronounced in the Lok Adalat on this 11th day of February, 2023.

[S.S.P. Jain]

5th Addl. District & Sessions Judge,
Ahmedabad (Rural) at Mirzapur.
UIC No.GJ01599.

Date : 11.02.2023.

Place: Ahmedabad.

A.V.Jani