

**ORDER BELOW EXH.1 IN
CRIMINAL CASE NO.49022/2011.**

1. The complainant E.S.I. Corporation has filed the present complaint against the accused for the offence under Section 138 of the Negotiable Instruments Act, 1881. After taking cognizance of the offence under Section 138 of the N.I. Act, against the accused, this Court issued summons to the accused. On perusal of the record of the case, though the complaint was filed on 02/11/2011, the summons against the accused served recently and appeared before this Court and declared that at the relevant time they have paid the amount of the cheque to the complainant and therefore the present complaint deserves to be dismissed. As the complainant was not appearing before this Court from long time, this Court issued notice to the complainant and after service of notice, the Ld. Advocate for the complainant Mr. Sudhir Pandey appeared before this Court with the Law Officer of the complainant-Corporation. After verifying from their record, the complainant filed a pursis on 11/07/2019 declaring that they have received the amount of cheque from the accused but due to return of cheque they have incur expenses to file the present complaint and therefore costs may be awarded to the complainant.

2. I have considered the submission of the Law Officer, Ld. Advocate for the complainant and the accused and perused the record of the case. On verification of the record, it is clear that the amount of cheque has been paid by the accused in the year 2012 and thereafter the present complaint has remained pending. This Court brought to the notice of the parties the latest judgment of the Hon'ble Supreme Court in the case of *M/s. Meters And Instruments Private Limited Vs. Kanchan Mehta*. In the said judgment, Supreme Court in para.19 held that 'where the cheque amount with interest and cost as assessed by the Court is paid by a specified date, the Court is entitled to close the proceedings in exercise of its powers under Section 143 of the Act read with Section 258 of Cr.P.C.'
3. In the present case, the amount of cheque has been paid by the accused within very short time of filing the present complaint. Therefore, in my opinion, the complainant is not entitled for any interest on the said cheque amount. So far as the cost of filing the present complaint is concerned, this Court in special sitting on the day of National Lok adalat is of the opinion that Rs.1000/- (Rupees One Thousand Only) be awarded as a cost for filing the

present complaint would be just and proper and therefore, I pass following final order :-

ORDER

- The accused is hereby directed to deposit Rs.1000/- (Rupees One Thousand Only) in the Court or to pay the said amount of Rs.1000/- directly to the complainant with intimation to this Court within 15 days of this order and the present complaint is ordered to be disposed of under Section 258 of the Criminal Procedure Code, 1973.

Order pronounced today on 13th July, 2019 in special sittings on the occasion of National Lokadalat.

**Date:-13/07/2019.
Vadodara.**

R.S. Mahagaonkar.

**[Gaurang Jitendrakumar Shah]
3rd Addl. Senior Civil Judge,
Vadodara.
Code No.GJ00660.**