

IN THE COURT OF 1st ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
BAHRAICH

PRESENT : PAWAN KUMAR SHARMA-II, HJS

J.O. Code. UP 02735

CNR No. UPBH010060822024



## Criminal Appeal No. 76 OF 2024

Dhirendra Kumar Shukla @ Monu Shukla aged 34 years S/o Moolchand Shukla  
r/o Gangapur, P.S.– Fakarpur, District – Bahraich

..... Appellant/Accused

Versus

1. State of U.P. through D.G.C.(Criminal), Bahraich

..... Respondent

2. Govind Prashad Lat aged 68 years S/o Late Sri Ranglal Ji Lat, Proprieter  
Star Auto Motive Services Mehinpurwa r/o – Mehinpurwa P.S.– Motipur, District–  
Bahraich.

..... Respondent/Complainant

## J U D G M E N T

1. File is putup for Judgment. On call Parties are present with their learned  
Counsels.2. This Criminal Appeal is filed against the Judgment and Order dated  
01.10.2024 passed by the learned Civil Judge (Sr. Div.), F.T.C./Additional Chief  
Judicial Magistrate, Bahraich in Criminal Complaint No. 1346/2018 – Govind  
Prashad Lat vs Dhirendra Kumar Shukla @ Monu Shukla under Section 138 of  
Negotiable Instrument Act, 1881 P.S.– Motipur, District– Bahraich whereby  
learned Trial Court has convicted the accused and sentencing 01 (One) year  
Simple imprisonment and Rs. 7,28,436/- to be paid to Complainant as  
compensation.3. During the course of hearing, parties settled the case out of court vide  
Settlement Agreement/Compromised (paper no.A-24) dated 03.02.2026 and  
same is filed in Original, in Criminal Appeal in hand. As per said Settlement  
Agreement dated 03.02.2026, all dues mutually settled between the parties and

in point no 3 of the head "cases covered under this settlement" this Criminal Appeal no.76 of 2024 also settled.

4. The Parties comes for compounding the matter. And on 30.01.2023 parties are present before the Court and ready to fixed this case to be settled on the basis of Settlement Agreement dated 03.02.2026.

5. I have examine the provisions of compounding as mention in Section 147 of the N. I. Act, which states, every offence punishable under this Act shall be compoundable. The Section 147 of N. I. Act is as provides:

"Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."

6. The learned counsel for the Appellant has placed reliance on the Hon'ble Supreme Court's judgments namely **Damodar S. Prabhu vs. Sayed Babalal H 2010 (2) S C C (Cri) 1328, M/s Meters and Instruments Private Limited and another vs. Kanchan Mehta 2017 (7) Supreme 558 and Dayawati vs Yogesh Kumar Gosain decided on 17.10.2017 (CRL. REF. No.1/2016), Rajeev Khandelwal vs. State of Maharashtra & anr., 2025 LiveLaw (SC) 1103**. I have respectfully perused the above decisions of the Supreme Court.

7. In the case of **Damodar S. Prabhu vs. Sayed Babalal H** reported as **2010 (2) SCC (Cri) 1328**, the Hon'ble Supreme Court Apex Court had formulated the Guidelines for Compounding the offence under Section 138 of the N. I. Act, wherein in Para 21, the following has been held:

"With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. Inview of this submission, we direct that the following guidelines be followed:—

**THE GUIDELINES**

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an

application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit.

**(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.**

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount."

8. In the case of **M/s Meters and Instruments Private Limited and another vs. Kanchan Mehta** reported as **2017 (7) Supreme 558**, wherein the Hon'ble the Supreme Court has held that in Para 18 that compounding at later stage is accepted, which is as follows:

"18 (i) xxxx

(ii) The object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, **compounding at the initial stage has to be encouraged but is not debarred at later stage** subject to appropriate compensation as may be found acceptable to the parties or the Court.

(iii) to (v) xxxxx

9. The learned Counsel for the Appellant is also placed reliance on the judgment of Hon'ble Delhi High Court, **Dayawati vs Yogesh Kumar Gosain** (Supra) has elaborately discussed the issue regarding the **Guidelines** contained in the **Damodar S. Prabhu case** (Supra) and in Para 79 quoted the judgment of Hon'ble Supreme Court reported as **Madhya Pradesh State Legal Services Authority v. Prateek Jain** (Supra). The Para 79 of the Judgment of Hon'ble Delhi High Court is reproduced hereunder:

"79. The judgment of the Supreme Court reported at **(2014) 10 SCC 690 Madhya Pradesh State Legal Services Authority v. Prateek Jain** also brings forth that even when cases under Section 138 of the NI Act were settled before the Lok Adalat, the guidelines in Damodar S. Prabhu are to be followed, with modifications, if any, qua reduction of costs if necessary. In para 23 of the judgment, the court stated the legal position thus :

"23. Having regard thereto, we are of the opinion that even when a case is decided in the Lok Adalat, the requirement of following the Guidelines contained in Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] should normally not be dispensed with. However, if there is a special/specific reason to deviate therefrom, the court is not remediless as Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] itself has given discretion to the court concerned to reduce the costs with regard to specific facts and circumstances of the case, while recording reasons in writing about such variance. Therefore, in those matters where the case has to be decided/settled in the Lok Adalat, if the court finds that it is a result of positive attitude of the parties, in such appropriate cases, **the court can always reduce the costs by imposing minimal costs or even waive the same.** For that, it would be for the parties, particularly the accused person, to make out a plausible case for the waiver/reduction of costs and to convince the court concerned about the same. This course of action, according to us, would strike a balance between the two competing but equally important interests, namely, achieving the objectives delineated in Damodar S. Prabhu [Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663 : (2010) 2 SCC (Civ) 520 : (2010) 2 SCC (Cri) 1328] on the one hand and the **public interest which is sought to be achieved by encouraging settlements/resolution of case through the Lok Adalats on the other hand.**(Emphasis by us)"

10. The learned Counsel for the Appellant is also placed reliance on the judgment of Hon'ble Supreme Court, **Sanjabij Tari vs Kishore S. Borcar & anr., Criminal Appeal No. 1755 of 2010 DOJ 25.09.2025.** In this case, the Hon'ble Supreme Court again formulated the guidelines with regard to compounding and relax the percentage of compounding at initial filing to Apex Court. The Para 38 and 39 of the Judgment are reproduced hereunder:

"38. Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this Court is of the view that it is time to 'revisit and tweak the guidelines'. Accordingly, the aforesaid guidelines of compounding are modified as under:—

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding

of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.

(c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount.

39. This Court is of the view that if the Accused is willing to pay in accordance with the aforesaid guidelines, the Court may suggest to the parties to go for compounding. If for any reason, the financial institutions/complainant asks for payment other than the cheque amount or settlement of entire loan or other outstanding dues, then the Magistrate may suggest to the Accused to plead guilty and exercise the power under Section 255(2) and/or 255(3) of the Cr.P.C. or 278 of the BNSS, 2023 and/or give the benefit under the Probation of Offenders Act, 1958 to the Accused.

11. The learned Counsel for the Appellant is also placed reliance on the judgment of Hon'ble Supreme Court, **Rajeev Khandelwal vs. State of Maharashtra & anr., 2025 LiveLaw (SC) 1103**. The Para 05 of the Judgment is reproduced hereunder:

"5. Construing it to be a law would discourage settlements at the revisional stage. The appellant is not in a position to comply with the order passed. In any case, the direction is not to make payment to the complainant, the private respondent herein, but to the Legal Services Authority. Thus, when the complainant has no objection, there cannot be any mandate of law directing the appellant to pay any further amount.

12. I have perused the record carefully. The record shows that the matter has been compromised and settled, out side of the court, vide Settlement Agreement dated 03.02.2026 between the parties and the amount of Rs. 7,28,436/- has been paid by the appellant towards full and final settlement to the respondent-complainant towards its dues. Hence, the order of conviction and sentence dated 01.10.2024 is deserve to be set aside and the appellant is entitle to acquittal.

13. On the basis of above discussion, this court is of the considered view that the compromise arrived between the parties to this litigation out of Court is accepted and the order of conviction and sentence passed by the learned Civil Judge (Sr. Div.), F.T.C./Additional Chief Judicial Magistrate, Bahraich in Criminal

Complaint No. 1346/2018 – Govind Prashad Lat vs Dhirendra Kumar Shukla @ Monu Shukla under Section 138 of Negotiable Instrument Act, 1881 P.S.– Motipur, District–Bahraich are deserve to be set aside. And this Criminal appeal deserves to be allowed and the appellant is entitle to acquittal. Appellant, who is financial not sound and not in position to pay any cost, complainant and his Ld. Counsel also agree on that fact. In these circumstances, and in the light of Rajeev Khandelwal vs. State of Maharashtra & anr. (supra), there is no cost.

#### O R D E R

The Criminal Appeal No. 76/2024 is **allowed**. The impugned judgment and order dated 01.10.2024 passed by the learned Civil Judge (Sr. Div.), F.T.C./ Additional Chief Judicial Magistrate, Bahraich in Criminal Complaint No. 1346/2018 – Govind Prashad Lat vs Dhirendra Kumar Shukla @ Monu Shukla under Section 138 of Negotiable Instrument Act, 1881 P.S.– Motipur, District–Bahraich is hereby **set aside**. Appellant is acquitted of the charge levelled against him under section 138 of Negotiable Instrument Act, 1881. The sureties are discharge and their bonds are canceled.

Let a copy of this judgment be sent to the Ld. Trial Court, along with its record, forthwith.

The record of this Appeal is consign to record room, accordingly.

Dated: 02.04.2026

(Pawan Kumar Sharma–II)  
1st Additional Sessions Judge,  
Bahraich

Judgment signed, dated and pronounced in open court today.

Dated: 02.04.2026

(Pawan Kumar Sharma–II)  
1st Additional Sessions Judge,  
Bahraich