

ORDER BELOW EXH. 1 IN
CRIMINAL APPEAL NO. 57 OF 2020.

[1] The parties have produced Compromise Pursis at Exh. 6 before this Court stating that the dispute is settled between the parties out of the Court. The Ld. Advocate for the appellant has made endorsement of 'Seen' on the compromise purshis. Further, the respondent - original complainant has stated in the compromise purshis that he has received the amount as agreed, which reveals that now all the dues of the respondent are paid and nothing remains to be recovered from the appellant. The appellant has also prayed to waive the amount of cost vide the application Exh. 7 considering the present situation of Covid - 19 pandemic. 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 there had been lockdown due to COVID - 19 situation and therefore, his business remained closed during the last few months, 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 permanent Lok Adalat, I have found it just and proper to waive the costs of compounding charge of compounding offence. Hence, in view of the compromise pursis, the impugned Judgment and Order of conviction dated 21.09.2019 passed by the Ld. Addl. Chief Judicial Magistrate, Surat, in Criminal Case No. 38607/2016 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 21.09.2019 passed by the Ld. Addl. Chief Judicial Magistrate, Surat, in Criminal Case No. 38607/2016, is hereby quashed and set aside and the appellant stands acquitted from the charges levelled against him u/s. 138 of the Negotiable Instruments Act.
3. A copy of this Order be sent to the Ld. Trial Court along with the R&P, if any.

Disposed today on this 11th day of September, 2021, in Lok Adalat.

Date : 11.09.2021
Place : Surat.

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