

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 215 of 2025**

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BHAGWANDAS PARAMANAND MURJANI

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR HIREN M MODI(3732) for the Applicant(s) No. 1

MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR****Date : 28/04/2025****ORAL ORDER**

Registry to accept vakalatnama of learned advocate Mr. Harsh R. Joshi, who has instructions to appear for the original complainant.

[1.0] **RULE.** Learned Additional Public Prosecutor as well as learned advocate appearing for the Complainant waive service of notice of Rule on behalf of the respective respondents.

[2.0] Considering the issue involved in the present application and with consent of the learned advocates appearing for the respective parties as well as considering the fact that the dispute amongst the applicant and original complainant has been resolved amicably, this application is taken up for final disposal forthwith as alleged offence is bailable and compoundable.

[3.0] By way of this application under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short "BNSS") read with section

442 of BNSS, the applicant has prayed for quashing and setting aside the order dated 03.06.2024 passed by the learned Additional Chief Judicial Magistrate, Gandhidham in Criminal Case No.5072 of 2022, whereby the Trial Court has been pleased to hold the applicant guilty for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short "NI Act") and sentenced to undergo SI of one year and also directed to pay an amount of Rs.10 lakh to the original complainant as compensation. The said order was assailed before the learned Additional Sessions Judge, Gandhidham-Kachchh by way of Criminal Appeal No.43 of 2024, which came to be dismissed vide impugned Judgment and order dated 06.12.2024 and the order of conviction has been confirmed and upheld by the concerned Additional Sessions Judge. Hence, this Revision Application is filed.

[4.0] Learned advocate for the applicant has taken this Court through the factual matrix arising out of the present application. At the outset, it is submitted that the parties have amicably resolved the issue. It is further submitted that in view of the fact that the dispute is resolved, present application deserves consideration.

[5.0] Learned Additional Public Prosecutor appearing for the State has opposed the present application and submitted that considering the seriousness of the offence, present application may be rejected.

[6.0] Learned advocate for original complainant has reiterated the contentions raised by the learned advocate for the applicant. The learned advocate for original complainant also relied upon the

affidavit filed by the original complainant – **Doma Surya Mukhiya – Original Complainant** who is also personally present in person before the Court and is identified by learned advocate for the original complainant. The affidavit sworn by the original complainant is taken on record. On inquiry made by the Court, original complainant has declared before this Court that the dispute between the applicant and the original complainant is resolved and cheque amount has already been received by the original complainant and therefore, now the grievance stands redressed. It is therefore submitted that the present application may be allowed.

[7.0] At the outset, learned advocates for the respective parties have jointly submitted that matter is settled and now the original complainant does not wants to pursue for the further litigation as complainant and applicant have settled the matter and in this regard, affidavit of original complainant has been placed, which is taken on record. The contents of the affidavit is also admitted by the original complainant. Even complainant has remained present before this Court and stated that he has no objection if the conviction recorded by the learned Trial Court as well as Appellate Court is set aside.

[8.0] Considering the fact that the dispute is settled between the parties and the applicant has paid the cheque amount i.e. Rs.5,00,000/- to the complainant and said fact has been confirmed by the complainant as offence is compoundable one at any stage under Section 147 of the NI Act. But, as accused has settled the dispute at belated stage before this Court, in view of the decision

rendered in the case of **Damodar S. Prabhu Vs. Sayed Babalal H, reported in 2010(5) SCC 663**, accused is required to be saddled with cost.

[9.0] Resultantly, this revision application is allowed. The order dated 03.06.2024 passed by the learned Additional Chief Judicial Magistrate, Gandhidham in Criminal Case No.5072/2022 as well as the order dated 06.12.2024 passed by the learned Additional Sessions Judge, Gandhidham-Kachchh in Criminal Appeal No.43 of 2024 are hereby quashed and set aside with respect to the applicant subject to deposit of 15% of the amount of cheque i.e. Rs.75,000/- out of the total cheque amount of Rs.5,00,000/- before the Gujarat State Legal Services Authority.

[10.0] On compliance of the said order, if the applicant is behind the bars, he shall be released subject to deposit of aforesaid amount of cost, if his presence is no longer required in any other criminal offence.

[11.0] The present application is allowed qua applicant. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(HASMUKH D. SUTHAR, J.)

Ajay

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AJAY CHANDRAN MENON(HC00939), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 28/04/2025 17:49:07