

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 403 of 2026**

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SHRIRAM FINANCE LTD THRO HARDASBHAI KARSHANBHAI CHAWDA
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR MANISH J PATEL(2131) for the Appellant(s) No. 1
MR RITESH B DAVE(2815) for the Appellant(s) No. 1
DS AFFIDAVIT NOT FILED (FOR FRESH NOTICE)(4501) for the
Opponent(s)/Respondent(s) No. 2
MS JYOTI BHATT ADDL. PUBLIC PROSECUTOR for the
Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

Date : 18/08/2026

ORDER

1. The appellant- original complainant has preferred this appeal under Section 413 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter be referred to as the "BNSS") against the judgment and order of acquittal dated 12.01.2026 passed by the learned Sessions Judge, Devbhumi Dwarka at Khambhalia (hereinafter be referred to as "the Appellate Court") in Criminal Appeal No. 27 of 2024, whereby the Appellate Court has acquitted the respondent accused from the charges under Section 138 of the Negotiable Instrument Act (hereinafter be referred to as "NI Act") by quashing and setting aside the judgment and order dated 02.05.2024 passed by learned Chief Judicial Magistrate, Khambhalia (hereinafter be referred to as the "Trial Court") in Criminal Case No.1347

of 2023.

2. The facts giving rise to present appeal are that the complainant, Shriram Transport Finance Co. Ltd., is a company registered under the Companies Act, 1956, engaged in providing loans against commercial vehicles. The complainant's authorized representative Hardasbhai Karshanbhai Chavda, was empowered by Power of Attorney to initiate proceedings on behalf of the company.

2.1 On 09.09.2015, the accused availed a vehicle loan of Rs.1,80,000/- under Agreement No. JMKMBO509090002. The accused failed to regularly pay the instalments, and the loan amount remained outstanding. Consequently, the complainant company repossessed the vehicle and issued a notice to the accused. Thereafter, the vehicle was sold for a sum of Rs.62,000/-. The complainant thereafter called upon the accused to repay the remaining amount of the loan. Subsequently, the accused settled the matter for a sum of Rs.2,50,000/- and issued a cheque for the said amount.

2.2 The said cheque, when presented for encashment, was dishonoured with the endorsement "*Account Closed*". The complainant thereafter issued a statutory notice which was served upon the accused. Despite service of notice, the accused failed to make payment of the cheque amount. Hence, the complainant filed a private complaint under Section 138 of the NI Act, 1881 before the Trial Court which was registered as Criminal Case No.1347 of 2023. The Trial

Court, after appreciating the evidence on record and hearing both sides, passed an order dated 02.05.2024, convicting the respondent under Sections 138 and 142 of the NI Act, and sentencing him to one year's imprisonment along with a fine of Rs. 2,000/-, and in default of payment of the fine, to undergo simple imprisonment for one month.

2.3 Being aggrieved by the said order of conviction the original accused has preferred appeal before the Appellate Court. Before the Appellate Court the accused denied the allegations, and the matter was thereafter fixed for the complainant's evidence.

2.4 In order to prove the charges levelled against the accused, the prosecution examined one witnesses namely Hardas Karshanbhai Chavda power of attorney holder at Exh.05 and led 10 documentary evidences.

2.5 At the conclusion of the trial, upon appreciation, evaluation and scrutiny of the evidence on record, the Appellate Court by judgment and order dated 12.01.2026, quashed and set aside order of Trial Court and acquitted the respondent-accused of the above mentioned offences.

2.6 Being aggrieved by and dissatisfied with the said judgment and order of acquittal the appellant has preferred present appeal.

3. Heard Mr. Manish Patel, learned counsel for the appellant and Ms. Jyoti Bhatt, learned APP for the respondent State.

3.1 Learned counsel for the appellant has submitted that the impugned judgment and order of acquittal passed by the Appellate Court is contrary to the provisions of law and the evidence on record. The Appellate Court has failed to properly appreciate and interpret the evidence, and therefore, the impugned judgment and order deserves to be quashed and set aside.

3.2 Learned counsel for the appellant has submitted that statutory presumptions under Sections 118 and 139 of the NI Act arise in favour of the complainant once the execution of the cheque is admitted. The accused failed to rebut the said presumptions by leading cogent and reliable evidence. However, the Appellate Court failed to appreciate the said statutory presumptions in their proper perspective, thereby rendering the impugned judgment erroneous and unsustainable in law.

3.3 Learned counsel for the appellant has submitted that the accused had availed a loan facility from the complainant Company and had issued the cheque towards discharge of a legally enforceable debt and liability. The cheque was presented and dishonoured, resulting in the filing of the complaint. The accused never disputed his signature on the cheque nor established that the loan amount had been repaid.

Despite the same, the Appellate Court failed to properly appreciate these material aspects and wrongly acquitted the accused.

3.4 Learned counsel for the appellant has submitted that the impugned judgment and order passed by the Appellate Court is contrary to the settled principles of law, erroneous and unwarranted in view of the facts and circumstances of the case and the evidence available on record.

3.5 Learned counsel for the appellant has submitted that despite appearing in the proceedings, the accused did not produce any valid documentary evidence nor examine any witness in support of his defence. Therefore, his defence remained unsupported by any cogent evidence.

3.6 Learned counsel for the appellant has submitted that the accused did not dispute having availed the loan facility or his liability arising therefrom. His only contention was that the cheque had been misused and that there was no legally enforceable debt or liability. However, he failed to challenge the loan account produced by the complainant Company or examine any witness from the finance company to rebut the statutory presumption. He also did not lead any evidence in support of his defence.

3.7 Learned counsel for the appellant has submitted that the cheque was drawn on an account maintained by the accused

and was issued towards repayment pursuant to a settlement. The accused never disputed his signature on the cheque. The Trial Court, after properly appreciating the evidence, rightly convicted the accused. However, in appeal, the Appellate Court acquitted the accused merely on the ground that the exact amount paid and the outstanding amount were not sufficiently clarified and that no documentary evidence regarding the settlement was produced. Such finding is contrary to the evidence and the statutory presumptions under the N.I. Act.

3.8 Learned counsel for the appellant has submitted that the complainant produced the loan agreement, statement of account and other relevant documents, which clearly established that the accused had availed the loan facility from the complainant Company and that an outstanding amount was due. The Trial Court rightly appreciated the said documentary evidence and convicted the accused. However, the Appellate Court failed to properly consider the same and erroneously held that the legally enforceable debt was not established merely because the exact calculation of the outstanding amount was not produced.

3.9 Learned counsel for the appellant has submitted that in his statement, the accused never denied entering into the loan agreement or availing the loan facility. He also did not dispute the issuance of the cheque or his signature thereon and did not reply to the statutory notice issued by the complainant.

3.10 Learned counsel for the appellant has submitted that the Appellate Court placed undue reliance upon circumstances and failed to give due weightage to the documentary evidence on record. The Trial Court had rightly considered the issue as to whether the complainant had proved the existence of a legally enforceable debt. However, the Appellate Court erroneously answered the said issue against the complainant merely on the ground that the exact outstanding amount had not been established.

3.11 Learned counsel for the appellant has submitted that the Appellate Court without properly appreciating the statutory presumptions and the evidence on record, erroneously acquitted the accused. The impugned judgment and order is therefore bad in law and deserves to be quashed and set aside.

3.12 Learned counsel for the appellant has submitted that the Hon'ble Supreme Court in *Hiten P. Dalal v. Bratindranath Banerjee* has held that once the execution of the cheque is admitted, the statutory presumption operates in favour of the holder and the burden shifts upon the accused to rebut the presumption by proving that the cheque was not issued towards discharge of any debt or liability. Such presumption is a presumption of law and not a mere presumption of fact. The accused is required to rebut the same by cogent evidence and not by a mere explanation.

3.13 Learned counsel for the appellant has submitted that all the ingredients of Section 138 of the N.I. Act stood duly established by the complainant. However, the Appellate Court failed to draw and apply the statutory presumptions under Sections 118 and 139 of the N.I. Act and, on an erroneous appreciation of the evidence, acquitted the accused. The impugned judgment and order is therefore perverse, contrary to law and evidence on record, and deserves to be quashed and set aside and order passed by the Trial Court convicting the accused may be restored.

4. Ms. Jyoti Bhatt, learned APP has submitted that she has adopted the arguments advanced by learned counsel for the appellant-original complainant.

5. Upon perusal of the impugned judgment and order, as well as the submissions advanced by the learned counsel for the appellant-original complainant, the issues that arises for consideration before this Court are as under:-

Whether the Trial Court committed any error in passing the impugned judgment and order of acquittal?

Whether the Trial Court, while appreciating the evidence of the prosecution witnesses, has committed any error of law or fact?

Whether the impugned judgment and order of acquittal suffers from any illegality or perversity?

6. In view of the above-stated submissions and upon perusal of the impugned judgment and order of acquittal it is

appropriate to first examine the facts of the case. On 09.09.2015, the accused availed a vehicle loan of Rs.1,80,000/- under Agreement No. JMKMBO509090002 but failed to pay the instalments regularly. The complainant repossessed and sold the vehicle for Rs.62,000/- and thereafter called upon the accused to clear the outstanding dues. The matter was subsequently settled for Rs.2,50,000/-, for which the accused issued a cheque. The cheque was dishonoured with the endorsement "Account Closed". Despite service of statutory notice, the accused failed to make payment, leading to the filing of a complaint under Section 138 of the NI Act, registered as Criminal Case No.1347 of 2023. The Trial Court convicted the accused by order dated 02.05.2024 and sentenced him to one year's imprisonment with fine. Aggrieved, the accused preferred an appeal. After considering the evidence of the complainant's power of attorney holder and the documentary evidence, the Appellate Court, by judgment dated 12.01.2026, quashed and set aside the conviction and acquitted the accused.

7. Being aggrieved and dissatisfied with the impugned judgment and order passed by the First Appellate Court, whereby the Appellate Court was pleased to acquit the present respondent original accused for the offence punishable under Section 138 of the NI Act, the present appeal has been preferred. Upon perusal of the record and proceedings of the Trial Court and after considering the evidence on record, the Appellate Court framed the issues for determination and considered the submissions advanced by

both sides, the impugned judgment passed by the Trial Court, and the various decisions cited by the learned advocate appearing for the respondent—original accused.

8. The Appellate Court recorded and summarized the facts of the case and observed that the respondent accused had obtained financial assistance of Rs. 1,80,000/- from the appellant original complainant by executing an agreement against hypothecation of a vehicle and the agreement remained in force until 25.02.2023. The respondent accused was required to clear all outstanding dues before the expiry of the said agreement, and in case of default, the appellant could have initiated proceedings for recovery of the outstanding amount within three years from the last date of the agreement.

9. However, according to the appellant—original complainant the respondent became liable to pay a sum of Rs.9,18,511/- including interest and default charges. Thereafter, the complainant entered into a settlement with the present respondent, pursuant to which the respondent issued a cheque for Rs. 2,50,000/- in favour of the appellant. The Appellate Court further observed that the said cheque was originally issued as a security cheque in connection with the hypothecation transaction and was in the possession of the complainant. The complainant deposited the said cheque with the bank, and upon its dishonour, issued the statutory notice under Section 138 of the NI Act and thereafter filed the complaint.

10. The Appellate Court has referred and relied upon the decisions of Hon'ble Apex Court and various High Courts which are as follows:-

"1 Shriram Transport Finance Co. Ltd. Thro Jadeja Indravadsinh Vikramsinh Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No.20475/2023)

2 Shriram Transport Finance Co. Ltd. Thro Imran Basirbhai Pathan Vs. State of Gujarat (R/Criminal Appeal No.2157/2023)

3 Shriram Transport Finance Co. Ltd. Thro Imran Imranbasir Yakubassir Pathan Vs. State of Gujarat & Anr. (R/Criminal Appeal (Against Acquittal) No.2166/2023)

4 Shriram Transport Finance Co. Ltd. Thro Kipansinh Narpatsinh Prankda Vs. State of Gujarat (R/Criminal Misc. Application (Against Acquittal) No.9000/2023)

5 Shriram Transport Finance Co. Ltd. Thro Vikas Laxmanbhai Patil Vs. State of Gujarat & Anr. (R/Cri. Appeal (Against Acquittal) No.250/2023)

6 Equitas Small Finance Bank Limited Thro Habibkhan yusufmiya Kureshi Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No.3505/2024)

7 Shriram Finance Ltd. (Know As Shriram Transport Finance Co. Ltd.) Thro Kausikkumar Jayantilal Prajapati Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No.10992/2024)

8 Shriram Finance Ltd. Thro Indravijaysinh Vikramsinh Jadeja Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No. 10323/2024)

9 Dilipbhai Chimanbhai Patel Vs. Haji Shabbirbhai Hasanbhai Vora & 1 (High Court of Gujarat) (Criminal Appeal No.222/2011) 2012 LawSuit (Guj) 1777

10 Kamleshkumar Balvantray Gupta Propo of M/s. Aakruti Road Carrier Vs. State of Gujarat & Anr.(R/Criminal Misc. Application (For Leave to Appeal) No.12803/2023)

11 Muralilal Birdhichand Rawat Partner of the Ratnamani Foods Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No.2764/2021)

12 Ilaben Manishkumar Patel Vs. State of Gujarat & Anr. (R/Criminal Misc. Application (For Leave to Appeal) No.5365/2024)

13 Shriram Transport Finance Company Ltd. Vs Shri. Nirmal w/o Kaldabi (Criminil Appeal No.200234/2023, Gujarat High Court)

14 Rajkumar Shrma Vs. Shriram Finance Co. Ltd. (Cr.M.P. No. 128/2014), (Chhattisgad High Court, Bilaspur)

15 P.ramamoorthy Vs. P.Ananthan (Crl.O.P. (MD) No. 3231/2020) (Madras)

16 Giridhari Lal Vs. P.T.V Ramanujachar (1997(1) ALT(CRI) 509, (AP)

17 Sasseriliya Josheph Vs Devassia (2001 CRILJ 24) (kerala)

18 Arvindbhai Bechardas Patel Vs Prahladkumar Radheshyamji (R/CR.A/442/2007)

19 Sudha Beevi Vs State Of Kerela (2004 Cri.L.J. 3418)

20 Dilipkumar Manharlal Vyas, Since Deceased Through Legal Heirs & 1 other(s) Vs. Girdharlal Hirajibhai & 1 othe(s), R/CR.A/131/2009

21 Narpat Motisingh Purohit Vs State of Gujarat 2021 Latest case law 17930 Guj

22 Dashrathbhai Trikambhai Patel Vs Hitesh Mahendrabhai Patel (Cri. Appeal No. 1497/2022) (Supreme Court)

23 A.C. Narayanan Vs State of Maharashtra & Anr (Criminal Appeal No. 73/2007-Supreme Court)

24 Sasseriyil Joseph Vs Devassia (Special Criminal Appeal No. 1785/2001) (Supreme Court)

25 Amit Jhunjhunwala Vs State Of west Bengal and Another C.R.R. 678/2022 and 679/2022. D/d. 30.06.2025 (Calcutta)

*26 Mas Financial Services Ltd Vs State of Gujarat & Anr.
(R/Criminal Appeal (Against Acquittal) No. 50/2017)*

*27 Narshi Devjibhai Parmar Vs State Of Gujarat & Anr.
(R/Criminal Appeal No. 522/2010)*

*28 Mas Financial Services Ltd Vs State of Gujarat & Anr.
(R/Criminal Appeal (Against Acquittal) No. 60/2017)*

*29 Mas Financial Services Ltd Vs State of Gujarat & Anr.
(R/Criminal Appeal (Against Acquittal) No. 1797/2016)*

*30 Mas Financial Services Ltd Vs State of Gujarat & Anr.
(R/Criminal Appeal (Against Acquittal) No. 1800/2016)*

11. Even, considering the manner in which the complainant has instituted the case against the accused and the evidence produced by the complainant itself, it appears that the facts stated in the complaint are not true. It also appears that several criminal cases instituted by the complainant company are pending before the Trial Courts as well as before Appellate Court. Instead of recovering its lawful dues by adopting civil remedies in accordance with law, the complainant company files criminal complaints.

12. Even during the trial, no evidence has been produced to show which instalment of which loan was recovered, which particular instalment was not paid by the accused, or what charges were levied in respect thereof. The complainant company ought to have examined the person maintaining the accounts and proved the entries and contents of the accounts through oral evidence. On the basis of the evidence produced, the complainant company has failed to prove the contents of the loan statement of account. Merely assigning an exhibit number to a loan statement does not amount to proof of the

contents thereof.

13. Though, against the said loan transaction, the amount repaid by the present respondent was not even reflected as a credit in his account; rather, it was shown as a debt. In the said circumstances, the Appellate Court has rightly recorded its reasons. Even the case of the complainant that, since the respondent had entered into a settlement and, in terms of the settlement and the conditions stipulated therein, the present respondent had issued the said cheque, was neither stated nor mentioned in the complaint or in the statutory notice.

14. In paragraph No. 14 onwards, the Appellate Court has considered the submissions with regard to the agreement entered into between the appellant and the respondent on 09.09.2015, pursuant to which an amount of Rs. 1,80,000/- was advanced for the purchase of a vehicle. As per the said agreement, the amount was required to be repaid by the present respondent on or before 09.09.2018. Thus, the respondent was required to repay the said loan amount within three years from the date of the agreement.

15. However, on 25.02.2023, i.e., after approximately five years from the date on which the loan became due, an amount of Rs. 9,18,511/- was shown as due and payable by the present respondent. Thereafter, a settlement was arrived at between the appellant and the respondent, pursuant to which the respondent issued a cheque dated 27.02.2023 for an amount of Rs. 2,50,000/-. If we consider the date of

completion of the said loan transaction as 09.09.2018, the cheque was issued after the expiry of the prescribed period of limitation. Thus, the facts reveal that, on the date of issuance of the cheque, there was no legally enforceable debt or liability subsisting against the present respondent, as the alleged debt had already become time-barred.

16. Upon considering all the circumstances it is evident that the complainant has failed to prove its legally enforceable debt or liability. It is also not proved that the cheque in question was handed over by the accused on the date mentioned therein after all the particulars had been filled in and after affixing his signature.

17. Even in case of ***Girdhari Lal Rath*** ***v. P.T.V. Ramanujachari & another, 1997 (2) Crimes 658*** it has been held that in case a cheque is issued for a time-barred debt and it is dishonoured, the accused cannot be convicted under section 138 of the Negotiable Instruments Act simply on the ground that the debt was not legally recoverable. Even in case of ***Jayantilal Maganlal Brahmbhatt vs. State of Gujarat and another*** recorded in Criminal Appeal No. 35 of 2008 dated 14.02.2013, more particularly the observations made by this Court in paragraph Nos. 11, 13 and 14, this Court is of the opinion that present appeal requires to be dismissed.

18. After considering the facts and circumstances of the case, the Appellate Court held that the cheque in question was a security cheque and that the underlying debt had

become time-barred. The Appellate Court, after considering a series of decisions of this Court as well as the Hon'ble Apex Court concluded that the Trial Court had failed to properly appreciate the relevant facts and the settled legal position while recording the conviction of the respondent accused. Consequently, the Appellate Court allowed the appeal and reversed the judgment and order of conviction passed by the Trial Court, mainly on the ground that the alleged debt was barred by limitation, which principle is well settled by the decisions referred to in the impugned judgment.

19. On perusal of the impugned judgment and order, it clearly transpires that the Appellate Court has not committed any error of fact and law in appreciating the evidence on record and in acquitting the accused from the charges levelled against them. Even on re-appreciation of the evidence, it clearly transpires that the prosecution has miserably failed to prove the charge levelled against the accused beyond reasonable doubt.

20. Considering the entire evidence on record, it clearly appears that there is no credible evidence to connect the present accused with the alleged crime and the evidence on record is not so convincing to prove beyond reasonable doubt that the accused has committed the alleged crime. Therefore, the accused cannot be convicted on the evidence on record. The impugned judgment and order of the Appellate Court is sustainable and the present appeal is liable to be dismissed.

21. In view of the above, the present appeal is devoid of

merits and it deserves to be dismissed. Resultantly, it is dismissed. The impugned judgment and order of acquittal passed by the Appellate Court is hereby confirmed. Bail bond stands cancelled. Record and proceedings be sent back to the concerned Court forthwith.

(HEMANT M. PRACHCHHAK,J)

SURESH SOLANKI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SURESHKUMAR MOTIBHAI SOLANKI(HC00208), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 31/08/2026 18:06:17