

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO. 7349
of 2026**

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RAKESHBHAI BHIKHABHAI PRAJAPATI (SARPANCH)**Versus****STATE OF GUJARAT & ANR.**

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Appearance:**MR.DIPEN F CHAUDHARI(6740) for the Applicant(s) No. 1****MS. KRINA P. CALLA, APP for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS**Date : 02/04/2026****ORAL ORDER**

1. Learned advocate Mr. Nikul B. Chaudhari appears and submits that he has instructions to appear on behalf of the respondent no.2 - complainant. He is permitted to file his appearance. Registry shall accept his vakalatnama.

2. By way of preferring the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant-accused seeks to invoke the inherent powers of this Court, praying to quash and set-aside the judgment and order dated 18.03.2023 passed by the learned 6th Additional Chief Judicial Magistrate, Gandhinagar, in Criminal Case No. 5390 of 2021, for the offence punishable under Section 138 of the Negotiable Instruments Act as well as all other consequential proceedings arising pursuant thereto.

3. Today, when the matter is called out, the complainant is personally present before this Court and has submitted his affidavit. The same is ordered to be taken on record. In the said affidavit, the complainant has categorically stated that he has no grievance against the applicant as he has received his dues. He has further stated that the dispute has been amicably resolved with the applicant and there is no ill-will or any grievance amongst them.

4. Considering the issue involved in the present application as well as considering the fact that the dispute has been amicably resolved between the parties, with the consent of the learned advocates appearing for the respective parties, the present application is taken up for final disposal.

5. **RULE** returnable forthwith. Learned APP Ms. Krina Calla waives service of notice of rule for and on behalf of the respondent no.1 - State and learned advocate Mr. Nikul B. Chaudhari waives service of notice of rule for and on behalf of the respondent no.2 - complainant.

6. The complainant, who is personally present in the Court, has categorically stated before this Court that he has no objection if the application is allowed and the judgment and order of conviction and sentence dated 18.03.2023 passed by the learned 6th Additional Chief Judicial Magistrate,

Gandhinagar, in Criminal Case No. 5390 of 2021, is quashed and set-aside.

7. Thus, it appears from the aforesaid that to continue further with the proceedings pursuant to the impugned judgment and order of conviction and sentence would be a futile exercise and the same would amount to abuse of process of law.

8. The relevant paragraphs of the affidavit filed by the complainant - Narendrakumar Okhabhai Solanki, read thus :

"3. I further state and submit that as I and applicant herein, both are known to each other and because of the intervention of the friends and family members of both the sides amicable settlement is arrived and I have no objection if the order passed by Ld. magistrate may be quashed and set aside by this Hon'ble Court.

4. I further state and submit that as the settlement is arrived between us and I have received cheque amount (Rs.1,04,000) from the present applicant, I have no objection if the order passed by Ld. magistrate may be quashed and set aside by this Hon'ble Court.

5. I further state and submit that I further state and submit that as the settlement has been carried out between parties and now no grievance has been remained between us. Therefore, I have no objection if the order passed by Ld. magistrate may be quashed and set aside by this Hon'ble Court.

6. I further state and submit that I have no objection if the present application is allowed and I am ready and willing to remain present before this Hon'ble court as and when necessary."

9. Having heard learned advocates appearing for the respective parties as well as considering the facts and circumstances arising out of the present application and taking

into consideration the decisions rendered in the cases of **Gian Singh vs. State of Punjab & Another**, reported in (2012) 10 SCC 303, **Madan Mohan Abbot vs. State of Punjab**, reported in (2008) 4 SCC 582, **Nikhil Merchant vs. Central Bureau of Investigation & Another**, reported in (2009) 1 GLH 31, **Manoj Sharma vs. State & Others**, reported in (2009) 1 GLH 190, and **Narinder Singh & Others vs. State of Punjab & Another**, reported in (2014) 2 Crime 67 (SC) as well as **State of Haryana vs. Bhajanlal**, reported in AIR 1992 SC 604, it appears that continuing further with the criminal proceedings pursuant to the impugned judgment and order would be a futile exercise and the same would amount to abuse of process of law. Hence, to secure the ends of justice, the impugned judgment and order as well as all other consequential proceedings arising pursuant thereto are required to be quashed and set-aside in exercise of the powers conferred 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. In the result, the application is allowed. The judgment and order of conviction and sentence dated 18.03.2023 passed by the learned 6th Additional Chief Judicial Magistrate, Gandhinagar, in Criminal Case No. 5390 of 2021, for the offence punishable under Section 138 of the Negotiable Instruments Act, as well as all other consequential proceedings arising pursuant thereto are hereby ordered to be quashed and set-aside qua the applicant.

11. In view of the ratio laid down in the case of **Sanjabij Tari**

Vs. Kishore S. Borcar and Another [2025 INSC 1158], the applicant is directed to deposit 7.5% of the cheque amount, by way of costs, with the District Legal Services Authority, Gandhinagar, within a period of **two weeks** from the date of this order.

12. Rule made absolute. Direct service is permitted.

AMAR SINGH

(VIMAL K. VYAS, J)