

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR CONSENT QUASHING) NO. 6824
of 2026****MEHULBHAI JASHUBHAI RATHOD
Versus
STATE OF GUJARAT & ANR.**

Appearance:

MR S D MOGHARIYA(11273) for the Applicant(s) No. 1
MS KRINA CALLA, LD.ADDL. PUBLIC PROSECUTOR for Respondent No.1**CORAM:HONOURABLE MR. JUSTICE VIMAL K. VYAS****Date : 01/04/2026
ORAL ORDER**

1. Learned advocate Mr.Dax Solanki 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 filing the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant-accused has prayed to quash and set-aside the judgement and order dated 06.01.2026 passed by the learned Additional Chief Judicial Magistrate, Surendranagar, in Criminal Case No.623 of 2025, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, as well as all other consequential proceedings arising pursuant thereto.

3. Today, when the matter is called out, the complainant, who is personally present before this Court, has produced his identity proof, which is ordered to be taken on record.

He has also filed an affidavit, which is annexed as Annexure "B" to the application. In the affidavit, the complainant has categorically stated that with the intervention of the friends, family members and community people, the dispute has been amicably resolved 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.Dax Solanki waives service of notice of rule for and on behalf of the respondent no.2 – complainant.

6. The complainant, who is present in the Court, has categorically stated before this Court that he has no objection if the application is allowed and the impugned judgement and order is quashed and set-aside. Thus, it appears from the aforesaid that to continue further with the proceedings pursuant to the impugned judgment and order would be nothing but a futile exercise and the same would amount to abuse of process of law.

7. The relevant paragraphs of the affidavit filed by the complainant, read thus :

“1. I have gone through the application filed by the applicant and I say that the alleged transaction was occurred due to the misunderstanding on the part of accused / applicant and me. There was transaction error between applicant. Now we have no dispute. I have also given consent that if this impugned conviction order is quashed then I do not have any objection.

2. Subsequently, the applicant /accused has given me full cheque amount. I received settlement amount from the present applicant. We are having good relations as we are old friends. Therefore our elder family members intervened in the issue and we decided to settle the issue. Applicant has given me cheque (Axis Bank Sarkhej Brnach) dated 03.12.2024 worth Rs. 1,00,000/-. I deposited cheque in Bank of Baroda Surendranagar Branch on dated 05.12.2024 which dishonoured by stating "Funds Insufficient". Thereafter trial was concluded and applicant was convicted. Thereafter we decided to settle the issue. Settled amount fixed at 1,00,000/- that I received by cash from applicant. Now, we are living like relatives in the same vicinity and having no grievance or grudge regarding the incident.

3. I say that I have no objection if the impugned order criminal case no. 623 of 2025 & proceedings thereof u/s 138 of Negotiable instrument act as well as

conviction order passed by the Ld. Add. Chief Judicial Magistrate Surendranagar Dist: Surendranagar is quashed and prayer made by the applicant in the present application is granted by this Hon'ble Court.

4. I say that due to the remorse admitted by the accused/ applicant and since we are known to each other, we have decided to compromise with the applicant. Neither I have been threatened nor been enticed by any person including the accused / applicant for compromise.”

8. Having heard learned counsel appearing for the respective parties, as well as considering the facts and circumstances arising out of the present application and also taking into consideration the decisions rendered in the cases of **Gian Singh Vs. State of Punjab & Anr.**, 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 & Anr.**, reported in **2009 (1) GLH 31**, **Manoj Sharma Vs. State & Ors.**, reported in **2009 (1) GLH 190** and **Narinder Singh & Ors. Vs. State of Punjab & Anr.** reported in **2014 (2) Crime 67 (SC)** and **State of Haryana Vs. Bhajanlal** reported in **AIR 1992 SC 604**, it appears that continuing further with the criminal proceedings pursuant to the impugned judgement and order against the applicant-accused would be an unnecessary harassment to the applicant-accused. It further appears that the same would be a futile exercise and

would amount to abuse of process of law. Hence, to secure the ends of justice, the impugned judgement and order as well as all other consequential proceedings are required to be quashed and set aside in exercise of the powers conferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. In the result, the application is allowed. The judgement and order dated 06.01.2026 passed by the learned Additional Chief Judicial Magistrate, Surendranagar, in Criminal Case No.623 of 2025, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, as well as all other consequential proceedings arising pursuant thereto, are hereby ordered to be quashed and set-aside.

10. Rule made absolute. Direct service is permitted.

11. In view of the ratio laid down by the Supreme Court in the case of **Sanjabij Tari Vs. Kishore S. Borcar [2025 INSC 1158]**, the applicant is directed to deposit 7.5 % of the cheque amount, by way of costs, with the concerned District Legal Service Authority, within a period of 2 weeks from the date of this order.

(VIMAL K. VYAS, J)

DIPTI PATEL