

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 4221 of 2026**

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M/S SHANKAR ENTERPRISE THRO. SURYAPRAKASH  
SHRIKELASHANKAR SHUKLA  
Versus  
STATE OF GUJARAT & ANR.

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**Appearance:**

MR. RONITH JOY, ADVOCATE for JURIS LEGAL PRACTITIONERS(17818)  
for the Applicant(s) No. 1  
MR HARSHAD O JOSHI(11428) for the Applicant(s) No. 1  
MS. MAITHILI MEHTA, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY****Date : 08/04/2026****ORAL ORDER**

1. By filing the present Petition under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner has prayed for the following reliefs:

*“A. Your Lordships may be pleased to admit and allow the present petition;*

*B. Your Lordships may be pleased to quash and set aside Criminal Complaint No. 7182 of 2022, pending before the Ld. Judicial Magistrate, Jamnagar, filed under Section 138 of the Negotiable Instruments Act, 1881 annexed at Annexure-A and further be pleased to quash and set aside the order of taking cognizance by the Ld. Court, below Exh.1 on the said Criminal Complaint, dated 20.07.2022 annexed at Annexure-B to this petition;*

*C. Your Lordships may be pleased to stay all further and consequential proceedings in Criminal Complaint No. 7182 of 2022*

*annexed at Annexure-a, pending before the Ld. Judicial Magistrate, Jamnagar during the pendency and final disposal of the present petition;*

*D. Your Lordships may be pleased to pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice."*

2. The Petitioner herein is facing trial for an offence punishable under Section 138 of the Negotiable Instruments Act ("the Act" for short). Being aggrieved by the complaint lodged against him for the aforesaid offence, the petitioner has approached this court by filing the present petition.

3. Heard learned Advocate Mr. Ronith Joy appearing for the petitioner and learned APP for the Respondent – State.

4. Learned Advocate Mr. Ronith Joy submitted that the disputed cheque was not issued in discharge of legally enforceable debt, and therefore, the complaint for an offence punishable under Section 138 of the Act is not maintainable against the petitioner. He further submitted that, the complainant, in his deposition before the trial court, has stated that he has received the amount of Rs.4,90,000/- through demand draft from the Gas Authority of India Limited on 16.11.2022 and the amount outstanding is Rs.46,27,074/-, where the disputed cheque was for the amount of Rs.51,17,274/-. He therefore submitted to allow the present petition and quash the complaint in question qua the present petitioner.

5. Learned APP has opposed the petition.

6. Heard learned Advocates for the parties. The question as to whether the disputed cheque was issued in discharge of legally enforceable debt or not, is

the question, which is to be proved before the learned trial court by the petitioner by leading the cogent evidence.

6.1 Learned Advocate appearing for the petitioner has drawn the attention of this court to the deposition of the complainant, wherein, the complainant has admitted that, out of the disputed amount of cheque, he has already received an amount of Rs.4,90,000/-. The trial of the offence is in progress and it is for the learned trial court to duly consider the deposition of the complainant.

7. It would not be proper for this court to record any finding by evaluating the deposition of the complainant at this stage.

8. Having regard to this aspect, no case is made out. The Petition is dismissed.

**(M. R. MENGDEY,J)**

J.N.W / 21