

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR LEAVE TO APPEAL) NO. 10305
of 2023****In R/CRIMINAL APPEAL/1346/2023****With
R/CRIMINAL APPEAL NO. 1346 of 2023**

=====

ISHWARBHAI MAGANBHAI PRAJAPATI**Versus****STATE OF GUJARAT & ANR.**

=====

Appearance:**MR ANKIT Y BACHANI(5424) for the Applicant(s) No. 1****MR YASH K DAVE(10269) for the Respondent(s) No. 2****MR TIRTHRAJ PANDYA, APP for the Respondent(s) No. 1****VISHAL K ANANDJIWALA(7798) for the Respondent(s) No. 2**

=====

CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER**Date : 16/03/2026****ORAL ORDER**

1. This application is filed under Section 378(4) of the Code of Criminal Procedure, 1973 (“Code or CrPC”) by the Complainant seeking leave to appeal to challenge the judgment and order impugned passed by the learned trial Court, whereby the Ld. Trial Court had acquitted the Respondent/s-Accused of charge under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the ‘NI Act’ for short).

2. Learned advocate for the appellant seeks permission to withdraw this application, in view of the latest decision rendered by this Court in the case of *Shivsinh*

Ganpatsinh Solanki V/s State of Gujarat & Anr. being *Criminal Miscellaneous Application Nos. 12753 of 2019 with 12908 of 2019 on 23.12.2025*, wherein, after considering the various judgments of the Hon'ble Supreme Court, more particularly, the judgment in the matter of *M/s Celestium Financial V/s A.Gyanasekaran etc. reported in 2025 INSC 804*, has observed and held that the Complainant, in a complaint under Section 138 of the N.I. Act, being a Victim, has a specific right to appeal under proviso of Section 372 of the Code (Section 413 of BNSS) to the Court which is immediately superior in hierarchy i.e., the Sessions Court, with a liberty to file appropriate appeal under Section 372 of the Code (Section 413 of BNSS) and prayed that the period that may be consumed in filing the present appeal, may not be counted as delay in filing such appeal before the concerned Court.

3. Permission as prayed for is granted. The present application as well as the connected appeal are disposed of as withdrawn, with a liberty to file appropriate appeal/s before the concerned Court, within a period of four months from the date of this order. Record and proceedings, if lying with this Court, be remitted back to the concerned Court forthwith.

4. It is clarified that the period that may be consumed in filing the present appeal may not be counted as delay in filing such appeal before the concerned Court. Moreover, the certified copy of the impugned judgment, be handed over to the applicant/appellant, as per Rules, if asked for. It is open for the parties to agitate all the grievance before the concerned Court afresh.

5. Considering that the matter has been pending for considerable time, the learned lower Appellate Court is required to make endeavour to dispose of the matter, if so filed, as expeditiously as possible.

6. It is clarified that this Court has not gone into the merits of the matter at this stage.

M.H. DAVE

(SANJEEV J.THAKER,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAHESHKUMAR HASMUKHLAL DAVE(HC00193), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 16/03/2026 17:24:49