

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 961 of 2025**

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VALA GOVINDBHAI PUNJABHAI PROP. VAIBHAV CONSTRUCTION
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR NITISH M NAIR(13998) for the Applicant(s) No. 1

MR. H K PATEL APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE L. S. PIRZADA

Date : 03/07/2025

ORAL ORDER

1. With the consent of the learned advocate for the respective parties. Learned advocate Mr.Nitish M. Nair for the applicant submitted that the present applicant accused is in judicial custody since 19.12.2024. The present applicant was convicted by Additional Chief Metropolitan Magistrate, Negotiable Instruments Act under Section 138 in Criminal Case No.12053/2019 by judgment and order dated 16.02.2023, convicting the present applicant accused under Section 138 of the Negotiable Instruments Act and sentenced him to one year of simple imprisonment and also order to pay cheque amount by way of compensation to the original complainant. The said order was challenged by the present applicant by preferring

Criminal Appeal No.126/2023 before the learned City Civil and Sessions Court, Ahmedabad and City Civil and Sessions Court No. 15, Ahmedabad has passing an order below Exhibit-1 and Exhibit-8 has dismissed the appeal for recall on account of the absence of the present applicant-accused in the appeal by order dated 05.04.2025 and the said order of the learned City Civil and Sessions Court, Ahmedabad has been assailed by the preferring this revision application. Further, learned advocate for the applicant submitted that the present applicant, he is in judicial custody and he is ready and willing to deposit 20% of the cheque amount before the learned City Civil and Sessions Court, Ahmedabad within eight weeks. Hence, the judgment of the learned City Civil and Sessions Court in appeal No.126/2023 is required to be set aside and matter is required to be remanded back to the learned City Civil and Sessions Court for deciding the said appeal on merits.

2. On the other hand, learned advocate for the respondent No. 2 Mr. M. J. Patel submitted that the present applicant is not remaining present in the appeal. However, he has no objection if the amount has been deposited by the present applicant and the matter be remanded back to the learned City Civil and Sessions Court for fresh decision of this criminal appeal on merits.

3. Considering the arguments of learned advocate for the respective parties before the learned City Civil and Sessions Court, Ahmedabad in Criminal Appeal No.126/2023 has dismissed the appeal for default by passing an order below Exhibit-1 on 05.04.2024 in the catena of the judgments of the Hon'ble Apex Court and various Hon'ble High Courts has in that the conviction appeal cannot be dismissed for want of prosecution in case if the applicant is not remaining present if the duty cast upon the Court to appoint any advocate as amicus and then decide the appeal on merits. Considering this, the order passed by the learned City Civil and Sessions Court, Ahmedabad in Criminal Appeal No.126/2023 dated 05.04.2024 is against the said principal is required to be quashed and set aside. Hence, considering this present revision application, is hereby, allowed. Judgment and order passed by the learned City Civil and Sessions Court, No. 15 Ahmedabad in Criminal Appeal No.126/2023 dated 05.04.2024 passing an order below Exhibit 1 and Exhibit 8, is hereby, quashed and set aside. The matter is remanded back to the learned City Civil and Sessions Court, Ahmedabad to decide Criminal Appeal No.126/2023 on merits.

4. The present applicant-accused has to deposit 20% amount of

the cheque before the learned City Civil and Sessions Court, Ahmedabad within eight weeks from the date of passing this order. The present applicant has also directed to co-operate with the proceedings of the appeal before the learned City Civil and Sessions Court or extraneous disposal of this appeal on merits.

5. The present applicant-accused is in judicial custody, he should be released by the Jail Authority forthwith. If he is not required in any other offenses.

Rule is made absolute.

Direct Service permitted.

(L. S. PIRZADA, J)

HRT

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: HIMAL RAKESHKUMAR TRIVEDI(HCD0071), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 03/07/2025 18:03:53