

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION (FOR LEAVE TO APPEAL) NO. 19401
of 2025****In F/CRIMINAL APPEAL NO. 37961 of 2025**

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JUBEDABEN MUSLIMBHAI AMRELIVALA
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR P P MAJMUDAR(5284) for the Applicant(s) No. 1
MR SURAJ B MATIEDA(10499) for the Applicant(s) No. 1
MR YUVRAJ BRAHMBHATT, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE SANJEEV J.THAKER**Date : 13/11/2025****ORAL ORDER**

1. The present application is filed by applicant original complainant to appeal seeking leave to file an appeal against the judgment and decree dated 05.08.2025 passed by the learned 3rd Additional Sessions Judge, Vadodara, in Criminal Appeal No. 82 of 2024, whereby the conviction order dated 10.01.2024 passed by the learned 16th Additional Chief Judicial Magistrate, Vadodara in Criminal Case No. 32704 of 2019, was quashed and set-aside and the respondent no. 2 was acquitted from the offences punishable under section 138 of the Negotiable Instrument Act.

2. Heard learned advocate Mr. P. P. Majmudar for the appellant and learned APP Mr. Yuvraj Brahmbhatt for the respondent no. 1 state an argument that as the respondent no. 2 and the brother of the applicant were friends, therefore, the respondent no. 2 was in

need of monetary requirement, respondent no. 2 had taken the hand loan amounting to Rs. 3,00,000/- and therefore paying back the said legal dues, the respondent no. 2 had issued the cheque of Rs. 3,00,000/- bearing no. 997149 drawn on the State Bank of India, Fatehganj Branch, Vadodara and when the applicant deposited the said cheque on 05.09.2019 for clearance in Central Bank of India, Karelibaug Branch, Vadodara, the same was returned dishonored on 06.09.2019 with the endorsement "funds insufficient", therefore, on 17.09.2019 the applicant had issued the demand notice to the respondent no. 2 under section 138 of the Negotiable Instrument Act, 1881 which was duly served to the respondent no. 2 on 18.09.2019 then too, the respondent no. 2 did not pay back the cleared the legal dues of the applicant and neither gave any reply to the said demand notice and therefore, the applicant had filed complaint under section 138 of the Negotiable Instruments Act.

3. The present application has provided oral as well as documentary evidence. Thereafter, the plea of the respondent no. 2 original accused came to be recorded, wherein she pleaded not to be guilty and the Additional Chied Judicial Magistrate Vadodara after conclusion of trial, respondent no. 2 was convicted for the offences punishable under section 138 of the Negotiable Instruments Act and was sentenced to undergo One year of simple imprisonment along with the compensation amount of the dishonored cheques that is of Rs. 3,00,000/- in default of which further two months of simple imprisonment was passed in the said

order has been quashed and set-aside by the 3rd Additional Sessions Judge, Vadodara, in Criminal Appeal No. 82 of 2024.

4. Learned Advocate for the applicant has argued that the trial court has not appreciated the evidence in proper prospective. Learned advocate submits that the applicant has a good case on merits and the applicant seeking relief to appeal be granted.

5. Learned APP Mr. Yuvraj Brahmbhatt for the respondent submits that learned trial Court has considered all documents produced by applicant and also considered the evidence and has passed the order of acquittal considering the settled principles of law and hence the leave to appeal cannot be granted.

6. Having heard learned advocates for the parties and having considered the submissions advanced by the respective parties so also having considered the judgment of the trial Court and having considered the ratio laid down in the judgment reported in 2025 LiveLaw SC 383 in the case of *Ashok Singh vs. State of Uttar Pradesh and another (supra)*, *prima facie*, present matter requires consideration and hence the present application for leave to appeal is granted and it is disposed of accordingly.

(SANJEEV J.THAKER,J)

SAKSHI MAURYA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SAKSHI MAURYA(HC02367), ENGLISH STENO GRADE-II, at High Court of Gujarat on 21/11/2025 12:09:09