



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**  
**R/SPECIAL CRIMINAL APPLICATION NO. 11398 of 2022**

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PATEL SHAILESHKUMAR MAFATLAL  
Versus  
STATE OF GUJARAT

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Appearance:

MR KAMLESH S KOTAI(6150) for the Applicant(s) No. 1  
MR JITENDRA KOTAI, ADVOCATE for the Respondent(s) No. 2  
MS MOXA THAKKAR, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

**Date : 21/10/2022**

**ORAL ORDER**

[1] Rule, returnable forthwith. Ms. Moxa Thakkar, learned APP and Mr. Jitendra Kotai, learned advocate waive service of notice of Rule for and on behalf of respondents respectively.

[2] By this application under Article 227 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, the petitioner has sought quashing of the judgment and order dated 23<sup>rd</sup> September 2022 passed by the learned Additional Chief Judicial Magistrate, Vijapur in Criminal Case No.826 of 2021, by which the petitioner has been convicted and ordered to undergo simple imprisonment for a period of six months and to pay Rs.1,50,000/- to the complainant towards compensation and as the petitioner was not



present when the judgment was pronounced, learned Magistrate issued Non-bailable warrant under Section 70 of the Cr.P.C. against the petitioner.

[3] It appears that the settlement has been arrived at between the complainant and present petitioner and the entire cheque amount has been paid to the respondent No.2, which has been confirmed by the complainant by detailed affidavit, which has been on record of the matter. The complainant do not wish to proceed further and is willing to compound the offence. Accordingly, the petitioner by filing this petition, seeks compounding of the offence under Section 147 of the Negotiable Instruments Act.

[4] The petitioner also submits that the petitioner is willing to deposit cost as directed by the Supreme Court in case of **Damodar S. Prabhu Vs. Sayed Babalal H.**, reported in (2010) 5 SCC 633, with the Legal Service Authority.

[5] In case of **Kripalsingh Pratapsingh Vs. Salvinder Kaur Hardisingh Lohana**, reported in (2004) 2 GLH 544, the coordinate Bench of this Court after considering various decisions of the Apex Court, took a view that it would be permissible for the High Court in exercise of its inherent powers under Section 482 of the Code, to record the settlement



arrived at between the parties and acquit the accused of the charges.

[6] Thus, taking into account the fact of settlement, the compounding of the offence is hereby permitted.

[7] As a result, the petition is allowed. Rule is made absolute to aforesaid extent. The judgment order dated 23<sup>rd</sup> September 2022 passed by the learned Additional Chief Judicial Magistrate, Vijapur in Criminal Case No.826 of 2021 and the warrant issued by the Trial Court are hereby quashed and set aside. The petitioner is acquitted of the offences under the provisions of the Negotiable Instruments Act. The petitioner is directed to deposit 15% of the cheque amount with the Gujarat State Legal Service Authority within a period of three months from the date of receipt of this order. Direct service permitted.

CHANDRESH

**(NIRAL R. MEHTA,J)**