

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -  
NEGOTIABLE INSTRUMENT ACT) NO. 448 of 2024**

=====

SURESH NANJI GOR

Versus

STATE OF GUJARAT & ANR.  
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## Appearance:

MR KIRTIDEV R DAVE(3267) for the Applicant(s) No. 1

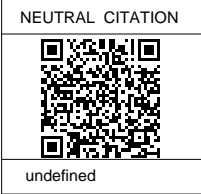
MR RAHUL K DAVE(3978) for the Applicant(s) No. 1

MR A N PATHAN(11756) for the Respondent(s) No. 2

MR JAY MEHTA APP for the Respondent(s) No. 1  
=====**CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI****Date : 22/05/2024****ORAL ORDER**

1. **Rule.** Learned advocates waive service of notice of Rule on behalf of respective respondents. Rule is fixed forthwith.

2. The present application has been filed under Section 397 read with Section 401 of the Cr.P.C. challenging the order of conviction dated 14.10.2022 passed by the learned Chief Judicial Magistrate, Bhuj – Kachchh in Criminal Case No.3041 of 2018 so also the order dated 25.09.2023 passed by the learned 8<sup>th</sup> Additional

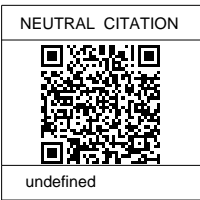


Sessions Judge, Bhuj – Kachchh in Criminal Appeal No.89 of 2022 confirming the conviction imposed by the learned Chief Judicial Magistrate, Bhuj Kachchh, upon the applicant.

3. The case, in brief, is that the complainant had given money to the applicant as loan against which the applicant had issued some cheques in lieu of money to be paid to the complainant, which were endorsed as 'unpaid' and hence the complaint came to be filed against the applicant.

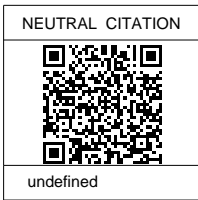
4. Heard learned advocates for the parties and perused the papers on record.

5. Learned advocate Mr.A.N.Pathan places on record the affidavit of Respondent No.2 – original complainant confirming that settlement between the parties has been arrived at and he has received all the cheque amount as per terms in the settlement. He further states that he has



no objection if the present application is allowed. The affidavit of the respondent No.2 – original complainant dated 22.05.2024 is taken on record.

6. Since the entire amount has been received by the complainant and the complainant has given consent for compounding the offence, keeping in mind the object of Section 147 of the NI Act, which is an enabling provision which provides for compounding the offence and may require the consent of the aggrieved for compounding the offence, however, the specific provision under Section 147, inserted by way of amendment towards special law, would give overriding effect to sub-section (1) of Section 320 Criminal Procedure Code, 1973 (CrPC) as has been observed in the case of **Damodar S. Prabhu v. Sayed Baba Lal**, AIR 2010 SC 1907. Accordingly, as the dispute has been resolved and the entire amount has been paid to the complainant, in



consonance with the object of the N.I. Act and the provisions under Section 147 thereof, the matter is considered as compounded.

7. In aforesaid view of the matter, and in view of the above statement made by the learned advocate Mr.Pathan for Respondent No.2 and in view of the affidavit of Respondent No.2 – original complainant, who confirms that the parties have arrived at settlement as he has received all the cheque amount, the judgment and order passed by the learned Trial Court of conviction and sentence for the offence punishable under Section 138 of the NI Act, as affirmed by the learned Appellate Court, are quashed and set aside. The applicant stands acquitted and be released forthwith.

8. The application stands disposed of. Rule is made absolute. Direct service is permitted.

**(PRANAV TRIVEDI,J)**