

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 512 of 2024****With****CRIMINAL MISC.APPLICATION (REGULAR BAIL) NO. 1 of 2024****In****R/CRIMINAL REVISION APPLICATION NO. 512 of 2024**

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DEEPAKBHAI RANCHHODBHAI SUTHAR**Versus****THAKAR HASMUKHBHAI BALDEVBHAI & ANR.**

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Appearance:

RUTVIK H MODI(8236) for the Applicant(s) No. 1

for the Respondent(s) No. 1

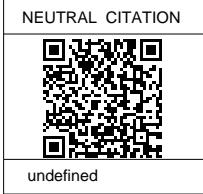
MR HARDIK MEHAT APP for the Respondent(s) No. 2

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI**Date : 18/06/2024****ORAL ORDER**

1. Mr. Niyant Bhimani, learned advocate states that he has instruction to appear on behalf of respondent no.1 – original complainant and seeks permission to file vakalatnama. Permission to file vakalatnama is granted, the same be accepted.

2. **Rule.** Learned APP waives service of notice of Rule on behalf of the respondent no.2 – State and Mr. Niyant Bhimani, learned advocate



waives service of notice of Rule on behalf of the respondent no.1.

3. By way of this application, the applicant – revisionist challenges the judgment of conviction and sentence dated 23.08.2022 passed by the learned Judicial Magistrate, First Class, Harij in Criminal Case No.72 of 2022 under Section 138 of the Negotiable Instruments Act, 1881, whereby the applicant has been convicted and sentenced to undergo simple imprisonment for a period of one year and Rs.1,00,000/- i.e. cheque amount has been ordered to be paid to the complainant within 60 days of the order, which came to be challenged by way of an Appeal and the same was confirmed on 14.03.2024 by the learned Sessions Judge, Patan in Criminal Appeal No.53 of 2022.

4. Learned advocate Mr. Rutvik H.Modi for the applicant – revisionist stated that the

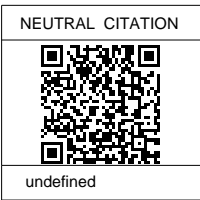


matter has been settled between the parties, and the Respondent no.2 – Thakar Hasmukhbhai Baldevbhai – original complainant is present before the Court, who is identified by learned advocate Mr. Niyant Bhimani.

4.1 The respondent no.2 – original complainant affirms that he has received the total cheque amount from the revisionist and the complainant does not want to pursue the matter now in view of amicable settlement and has given consent for compounding the offence. The complainant also filed an affidavit to that effect, which is taken on record.

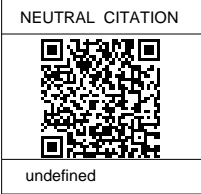
5. Mr. Niyant Bhimani, learned advocate for respondent no.2 - original complainant, concurred with the factum of settlement of the dispute, as advanced by learned advocate Mr. Rutvik H.Modi appearing for the applicant.

6. Advocate Mr. Shah submitted that 20%



amount has been deposited before the Sessions Court, which may be ordered to be paid to the complainant on verification of the identity.

7. Since 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.



8. In aforesaid view of the matter, 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.

8.1 Accordingly, the present application stands disposed of in the above terms. Rule is made absolute to the aforesaid extent. Direct service is permitted.

Pankaj

(GITA GOPI,J)