

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -  
NEGOTIABLE INSTRUMENT ACT) NO. 721 of 2024**

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DBG CLOTHING PVT LTD THRO KRUTARTH DHARAMDAS GORADIA &  
ORS.

*Versus*

STATE OF GUJARAT & ANR.

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**Appearance:**

MR DAXESH D BAROT(13149) for the Applicant(s) No. 1,2,3  
for the Respondent(s) No. 2

MS. JIRGA JHAVERI, APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

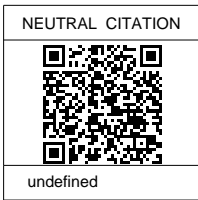
**Date : 24/05/2024**

**ORAL ORDER**

[1] Learned advocate Mr. Birju Joshi would submit that he has received instructions to appear on behalf of the complainant and he would file his Vakaltnama in the Registry. Registry to accept the same.

[2] **Rule.** Learned APP waives service of notice of rule for the respondent No.1 - State and learned advocate Mr. Birju Joshi waives service of notice of rule on behalf of respondent No.2 - original complainant.

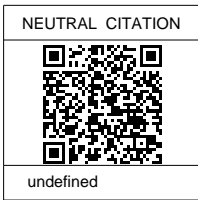
[3] The revision has been filed challenging the concurrent findings arrived at by the Court below whereby the learned 12<sup>th</sup> Additional Chief Judicial Magistrate, Surat on 22.12.2022 in



Criminal Case No.53084 of 2018, has convicted the revisionists for the offence punishable under Section 138 of the Negotiable Instruments Act and ordered to undergo simple imprisonment of one year and also passed the order of compensation equal to the amount of the cheque, failing which simple imprisonment of six months has been awarded. The revisionist unsuccessfully assailed the said judgment and order in Criminal Appeal No.157 of 2023, whereby the learned Additional Sessions Judge, Surat by order dated 02.05.2024 confirmed the judgment and order of the trial Court. Hence this revision.

[4] When the revision is called out for hearing, the complainant is present through videoconferencing and his learned advocate Mr.Joshi is present before this Court, who identified him. Both the parties as well as their learned advocates submit that the parties have amicably settled their dispute and amount of cheque has been received by the first informant. In support of their statement, an affidavit dated 15.05.2024 of complainant is produced which is taken on record. Section 147 of the Negotiable Instruments Act permits compounding of offence at any stage of the hearing. Therefore, compounding of the offence is also permitted at the stage of the present revision.

[5] After verifying voluntary character of the compromise and the request for compounding of offence, the compounding of the offence is permitted.

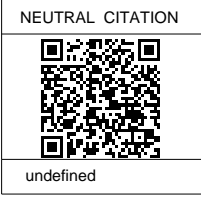


[6] In light of the decision rendered by the Honble Apex Court in the case of ***Damodar S. Prabhu V/s. Sayed Babalal H.*** reported in ***AIR 2010 SC 1907***, the applicants are required to pay 15% of the cheque amount by way of cost with the High Court State Legal Services Authority in accordance with the guidelines laid-down in the said decision. In para-17 of the said decision, the Honble Apex Court has also observed that the Court can reduce the costs with regard to the specific facts and circumstances of the case. In the instant case, the applicants suffered imprisonment after conviction, therefore, to meet the ends of justice, the applicants are directed to deposit 15% of the cheque amount with the High Court Legal Services Authority.

[7] For the foregoing reasons, I pass the following order:-

(i) The impugned judgment and order of conviction under Section 138 of the Negotiable Instruments Act and passing of sentence thereof by the learned Trial Court in Criminal Case No.53084 of 2018 and confirmed by the Sessions Court in Criminal Appeal No.157 of 2023 are hereby quashed and set aside on account of compounding of offence with the complainant.

(ii) In view of this, the revisionists shall not be under obligation to serve the remaining sentence and



the revisionists shall be treated as acquitted and are to be set free on account of compounding of offence with the complainant. If any amount is paid towards fine by the revisionists, same may be refunded after due verification.

[8] Accordingly, the present revision stands allowed subject to payment of 15% of the cheque amount of around Rs.4,00,000/-, which comes to Rs.60,000/-, by the revisionists with the Gujarat State Legal Services Authority within three weeks from today. The receipt thereof shall be produced on record. Rule is made absolute to the aforesaid extent.

Direct service permitted.

**(PRANAV TRIVEDI, J.)**

DHARMENDRA KUMAR