

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 725 of 2024****With****CRIMINAL MISC.APPLICATION (REGULAR BAIL) NO. 1 of 2024
In R/CRIMINAL REVISION APPLICATION NO. 725 of 2024**

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UMANG TRADING CO. PARTNER RANCHHODBHAI PREMJBHAI AAHIR
Versus
STATE OF GUJARAT & ANR.

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Appearance:

ADILHUSHAIN M SAIYED(9723) for the Applicant(s) No. 1

MR. DEVANSH KAKKAD for the Respondent(s) No. 2

MR. H.K. PATEL ADDL. PUBLIC PROSECUTOR for the Respondent(s) No. 1

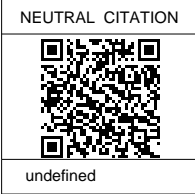
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CORAM:HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 27/05/2024**ORAL ORDER**

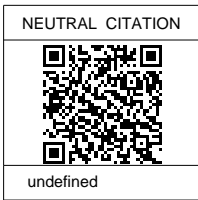
1. The present revision application is preferred under Section 397 read with Section 401 of Code of Criminal Procedure challenging the impugned judgement and order of conviction and sentence passed by the learned Chief Judicial Magistrate, Bharuch dated 07.12.2022 in Criminal Case No. 6529/2019 as well as order passed by the learned Principal District Judge, Bharuch in Criminal Appeal No. 6/2023.

2. It is the case of the complainant that the complainant is doing agricultural activities and sold the goods to the accused persons. For repayment of the



aforesaid goods, cheque bearing no. 000141 for an amount of Rs. 1,43,035/- dated 27.06.2019 was issued in favour of the complainant. On depositing the above cheque, it was returned with an endorsement of 'funds insufficient' and therefore, after following the due procedure under the Negotiable Instruments Act, a private complaint came to be filed. The learned Trial Court after considering the evidence and the submissions made by the learned advocate for the respective parties, has convicted the accused for the offence punishable under Section 138 of Negotiable Instruments Act and imposed a sentence of simple imprisonment of one year along with fine of Rs. 10,000/-. Learned Trial Court further awarded compensation under Section 357(3) of the Code of Criminal Procedure and directed the respondent accused to pay an amount of Rs. 1,43,035/-. Challenging the above judgment and order of conviction, the accused has preferred the appeal before the learned Sessions Court being Criminal Appeal No. 6/2023. The learned Sessions Court, after considering the evidence, has dismissed the appeal and confirmed the judgement of conviction which is impugned before this Court.

3. Learned learned advocate Mr. Adilushain M Saiyed for the applicant and learned advocate Mr. Devansh Kakkad for the respondent no. 2.

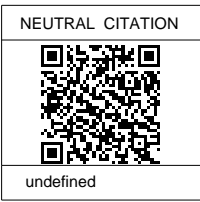


4. Learned advocate has submitted that the whole amount of cheque is paid to the complainant and at present the complainant does not have any grievance and would have no objection if the present revision application is allowed.

5. On the other hand, learned advocate for the complainant has filed the affidavit confirming the settlement between the parties and submitted that if the revision application is allowed, he has no objection.

6. Considering the submissions made by learned advocates for the respective parties, this Court is of the view that in view of the settlement of the payment of the cheque amount, the present revision application is required to be allowed. Hence, this application is **allowed** and the judgement and order passed by the Court below in Criminal Appeal No. 6/2023 dated 10.05.2024 and Criminal Case No. 6529 of 2019 dated 07.12.2022 is hereby quashed and set aside.

7. As the settlement was arrived between the parties at the revision stage, cost is required to be imposed as per judgement rendered by the Hon'ble Apex Court in case of **Damodar S. Pradbhu Vs. Sayed Babalal H.** reported in **2010 (5) SCC 663**, the applicant is directed to deposit Rs. 21,000/- in the High Court Legal Aid Service Authority



within a period of four weeks.

8. In view of the above, as the main revision application is allowed, the Criminal Misc. Application has become infructuous and disposed of accordingly.

VASIM S. SAIYED

(M. K. THAKKER,J)