

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION -
NEGOTIABLE INSTRUMENT ACT) NO. 733 of 2024**

=====

MUMTAZBANU ILIYASKHAN PATHAN

Versus

STATE OF GUJARAT & ANR.

=====

Appearance:

MR KAMLESH S KOTAI(6150) for the Applicant(s) No. 1

for the Respondent(s) No. 2

MR JAY MEHTA APP for the Respondent(s) No. 1

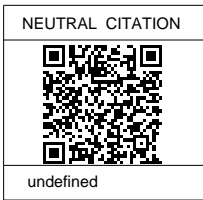
=====

CORAM:HONOURABLE MR. JUSTICE PRANAV TRIVEDI**Date : 23/05/2024****ORAL ORDER**

1. Learned advocate Mr.Chintan Adeshra 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.

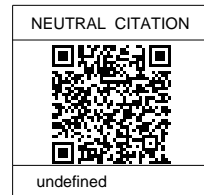
2. Rule. Learned APP waives service of notice of rule for the respondent – State and learned advocate Mr.Adeshra waives service of rule for respondent No.2 – original complainant.

3. The revision has been filed challenging the concurrent findings arrived at by the Court below



whereby in Criminal Case No.4400 of 2021, the learned Trial Court has convicted the revisionist for the offence under Section 138 of the Negotiable Instruments Act and ordered to undergo rigorous imprisonment of six months and also passed the order of compensation of Rs.85,000/- to be paid to the complainant, failing which rigorous imprisonment of further 90 days has been awarded. The revisionist unsuccessfully assailed the said judgment and order in Criminal Appeal No.187 of 2023 whereby the learned Additional Sessions Judge, Mehsana confirmed the judgment and order. Hence the present revision.

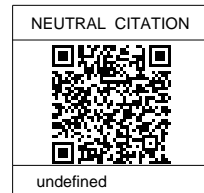
4. When the revision is called out for hearing, the complainant along with his learned advocate Mr.Adeshra is present. Both the parties as well as their learned advocates submit that the parties have amicably settled their dispute and all the amount of cheque has been received by the first informant. In support of their statement, an affidavit of complainant is also 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 applicant is required to pay 10% 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 applicant suffered imprisonment after conviction, therefore, to meet the ends of justice, the applicant is directed to deposit 10% of the cheque amount with the High Court Legal Services Authority.

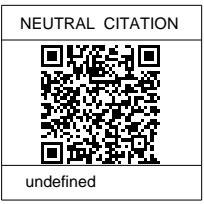


7. For the foregoing reasons, I pass the following order:

(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.4400 of 2021 and confirmed by the Sessions Court in Criminal Appeal No.187 of 2023 are hereby quashed and set aside on account of compounding of offence with the complainant.

(II) In view of this, the revisionist shall not be under obligation to serve the remaining sentence and the revisionist shall be treated as acquitted and is to be set free on account of compounding of offence with the complainant. If any amount is paid towards fine by the revisionist, same may be refunded after due verification.

8. Accordingly, the present revision stands allowed subject to payment of 10% of the cheque amount of



Rs.70,000/- by the revisionist 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.

MISHRA AMIT V./ Suppl Board 1 / 1

(PRANAV TRIVEDI,J)