

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION) NO. 869  
of 2024**

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AJITBHAI RAHEMANBHAI PATHAN  
Versus  
STATE OF GUJARAT & ANR.

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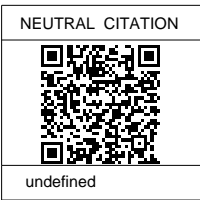
Appearance:  
MR VEVANSH KAKKAD ADVOCATE FOR MR PARVEZ A PATHAN(10862)  
for the Applicant(s) No. 1  
for the Respondent(s) No. 2  
MR HARDIK MEHTA APP for the Respondent(s) No. 1

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**CORAM:HONOURABLE MS. JUSTICE GITA GOPI****Date : 19/06/2024****ORAL ORDER**

1. Advocate Mr. Adil Husain Saiyed is present before the Court through video conferencing along with original complainant and states that he has instruction to appear on behalf of respondent no.2 – original complainant and seeks permission to file Vakalatname. Permission to file Vakalatnma is granted; the same be taken on record.

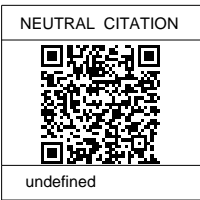
2. **Rule.** Learned APP waives service of



notice of Rule on behalf of the respondent no.2 – State and Mr. Adil Husain Saiyed, learned advocate waives service of notice of Rule on behalf of the respondent no.2.

3. By way of this application, the applicant – revisionist challenges the judgment of conviction and sentence dated 02.07.2022 passed by the learned Chief Judicial Magistrate, Bharuch in Criminal Case No.728 of 2019 under Section 138 of the Negotiable Instruments Act, 1881, which came to be confirmed by order dated 08.01.2024 by the learned Principal District and Sessions Judge, Bharuch in Criminal Appeal No.656 of 2022.

4. Learned advocate Mr. Vevansh Kakkad for Mr. Parvesh Pathan, learned advocate for the applicant – revisionist stated that the matter has been settled between the parties. It is stated that the all the cheque amount has been



paid to the complainant.

4.1 Mr. Vinodchandra Ramanlal Modi – original complainant appeared before the Court through video conferencing along with Advocate Mr. Adil Husain Saiyed.

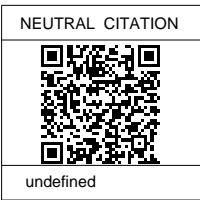
4.2 The affidavit of the original complainant is on record, who affirms that the the matter has been settled between the parties out side the Court and he has received the cheque amount of Rs.1,00,000/-, and the complainant does not want to pursue the matter now in view of amicable settlement and has given consent for compounding the offence.

5. 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.

6. 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 and be released forthwith from the jail.



7. Accordingly, the present application stands disposed of in the above terms. Rule is made absolute to the aforesaid extent. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

Pankaj

**(GITA GOPI,J)**