IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (QUASHING) NO. 737 of 2024

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RANIBHAI SURATSINH RAYSIKH

Versus

STATE OF GUJARAT

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Appearance:
MR MEET M KATIRA(10504) for the Applicant(s) No. 1
PARTH J BRAHMBHATT(9373) for the Applicant(s) No. 1
MR SUDHANSHU JHA, for the Respondent(s) No. 2
MS VRUNDA SHAH, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 01/02/2024

ORAL ORDER

1. Learned advocate Mr. Sudhanshu Jha states that he has instructions to appear on behalf of the original complainant and thereby, seeks permission to file his Vakalatnama, which is granted.

2. **RULE**. Learned advocates waive service of note of rule on behalf of the respective respondents.

3. Considering the facts and circumstances of the case and since it is jointly stated at the bar by learned advocates on both the sides that the dispute between the parties has been resolved amicably, this matter is taken up for final disposal forthwith.

4. By this application under Articles 226 and 227 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, the petitioner seeks to quash and set aside the impugned judgment and order dated 31.07.2023 passed by learned 2nd Judicial Magistrate Court, Bhuj-Kutch, in Criminal Case

No.1196/2020, whereby the petitioner is convicted under Section 138 of the Negotiable Instruments Act and sentenced one year SI and also directed to pay the cheque amount as a compensation to the complainant within 60 days, failing which, to undergo two months SI. The said order of conviction is confirmed by the learned 8th Additional District & Sessions Judge, Kutch Bhuj, in Criminal appeal No.107/2023.

5. It appears that the settlement has been arrived at between the complainant and present petitioner and post dated cheque of Rs.2,00,000/- is given to the complainant. The complainant do not wish to proceed further and is willing to compound the offence. Accordingly, the petitioner by filing this petition, seeks compounding of the offence under Section 147 of the Negotiable Instruments Act.

6. The petitioner also submits that she is widow and is living under the below poverty line and her yearly income is Rs.48,000/-. In this regard, income certificate is produced on record.

7. In case of **Kripalsingh Pratapsingh Vs. Salvinder Kaur Hardisingh Lohana, reported in (2004) 2 GLH 544**, the coordinate Bench of this Court after considering various decisions of the Apex Court, took a view that it would be permissible for the High Court in exercise of its inherent powers under Section 482 of the Code, to record the settlement arrived at between the parties and acquit the accused of the charges.

8. Thus, taking into account the fact of settlement, the compounding of the offence is hereby permitted. As a result, the

petition is **allowed**. The impugned judgment and order dated 31.07.2023 passed by learned 2nd Judicial Magistrate Court, Bhuj-Kutch, in Criminal Case No.1196/2020 is hereby quashed and set aside. The petitioner is acquitted from the offences under the provisions of the Negotiable Instruments Act.

Rule is made absolute. Direct service permitted.

(HASMUKH D. SUTHAR,J)

SUCHIT