

HIGH COURT OF UTTARAKHAND AT NAINITAL

DAILY LOK ADALAT

Criminal Revision No. 198 of 2025

Girish Chand

.....Revisionist

Versus

Abhishek Basera

.....Respondent

Mrs. Prabha Naithani, Advocate, for the revisionist.

Mr. Vishwastha Kandpal, Advocate holding brief of Mr.

Akshay Joshi, Advocate for the respondent.

Daily Lok Adalat Award

Present:

Hon'ble J.C.S. Rawat, J. (Retd.)

Mahesh Chandra Pant, Adv./Member.

Revisionist-Girish Chand is present before the Daily Lok Adalat and respondent-Abhishek Basera, is present through video conferencing before the Daily Lok Adalat today.

2. This matter has been referred by the Hon'ble Court vide order dated 12.08.2025. The parties have settled their dispute and they have filed a compromise before us. The revisionist Girish Chand is present in person, whereas the respondent Abhishek Basera is present through video conferencing. Both have been duly identified by their counsel.

3. The present revision petition has been filed against the judgment and order dated 02.04.2025 passed by the learned Sessions Judge, Pithoragarh in Criminal Appeal No. 33 of 2024, Girish Chand vs. Abhishek Basera and another, by which the appeal of the revisionist

has been dismissed against the order of the learned Chief Judicial Magistrate, Pithoragarh passed in Complaint Case no. 2031 of 2022, 'Abhishek Basera vs. Girish Chand', under Section 138 of Negotiable Instruments Act, by which the revisionist has been convicted under Section 138 of Negotiable Instruments Act sentencing him to undergo for six months imprisonment along with a fine Rs. 6,90,000/-. Feeling aggrieved by the said judgment and order, the present revision has been preferred before the Hon'ble Court. The matter has been referred to us.

4. The parties have filed their compromise application along with an affidavit. The parties have also filed compromise application before us, which runs as under: -

"Compounding Application No. 03 of 2023

In

Criminal Revision No. 198 of 2025

Girish Chand (male), aged about 37 years S/o Shri Mohan Singh, R/o Village Ratanpur Jhankat, Post Office Khatima, District Udham Singh Nagar.

_____Revisionist

Versus

Abhishek Basera (male) aged about 36 years, S/o Shri Chandra Singh Basera, R/o Rai near Asian Academy, Post Office Siltham, Tehsil and District Pithoragarh

_____Respondent

To,

The Hon'ble the Chief Justice and his other companion Judges of the aforesaid court.

The revisionist, named above, most respectfully submit as under:-

1. That this is the first compounding application file on behalf of the revisionist before this Hon'ble Court and no other compounding application is either being filed or is pending adjudication.

2. That the revisionist by way the present compounding application are jointly seeking quashing of judgment and order dated 02.04.2025 passed by Court of Session Judge Pithoragarh in Criminal Appeal No. 33 of 2024 “Girish Chand vs. Abhishek Basera & another”, by which the appeal filed by revisionist against judgment dated 06.05.2024 has been dismissed and the conviction awarded by trial court has been affirmed passed by Learned Chief Judicial Magistrate, Pithoragarh in Complaint Case No. 2031 of 2022 “ Abhishek Basera vs. Girish Chand” Under Section 138 of Negotiable Instruments Act by which revisionist has been convicted under Section 138 of Negotiable Instruments Act sentencing to undergo 6 Months Imprisonment along with fine of Rs. 6,90,000/-.
3. That it is pertinent to mention here that the revisionist has duly paid the entire amount of Rs. 6,90,000/- to the respondent through UPI transfers and cash deposits into the respondent’s bank account. The detailed particulars of the said payments have been duly annexed and placed on record along with the Criminal Revision as well as the Bail Application filed by the revisionist in the said proceedings.
4. That revisionist respectfully states that since the dispute between the parties has already been settled to their satisfaction and further since the respondent/complainant is not intending to continue with the present case, therefore, the judgment and order dated 02.04.2025 passed by Court of Session Judge Pithoragarh in Criminal Appeal No. 33 of 2024 “ Girish Chand vs. Abhishek Basera & another” by which the appeal filed by revisionist against judgment dated 06.05.2024 has been dismissed and the conviction awarded by the trial court has been affirmed passed by Learned Chief Judicial Magistrate, Pithoragarh in Complaint Case No. 2031 of 2022 “ Abhishek Basera vs. Girish Chand” Under Section 138 of Negotiable Instruments Act by which revisionist has been convicted under Section 138 of Negotiable Instruments Act sentencing to undergo 6 Months Imprisonment along with fine of Rs. 6,90,000/-, be quashed in the light of amicable settlement between the parties.
5. That the revisionist has amicably settle their dispute with the respondent/complainant and as per the settlement the respondent/complainant and the revisionist have decided mutually and through their own independent will to settle the dispute and withdraw all the cases.
6. That since in the light of the amicable settlement between the parties, the parties have entered into a settlement amongst each other out of their free will and without any coercion, therefore, since the dispute between the parties has

already been settled to their satisfaction and further the respondent/complainant is not intending to continue with the present case.

7. That the revisionist and the complainant together prays to this Hon'ble Court to allow this application and permit the compounding of the offences as alleged against the revisionist and this Hon'ble Court may graciously be pleased to quash the judgment and order dated 02.04.2025 passed by Court of Session Judge Pithoragarh in Criminal Appeal No. 33 of 2024 "Girish Chand vs. Abhishek Basera & another", by which the appeal filed by revisionist against judgment dated 06.05.2024 has been dismissed and the conviction awarded by trial court has been affirmed passed by Learned Chief Judicial Magistrate, Pithoragarh in Complaint Case No. 2031 of 2022 " Abhishek Basera vs. Girish Chand" Under Section 138 of Negotiable Instruments Act by which revisionist has been convicted under Section 138 of Negotiable Instruments Act sentencing to undergo 6 Months Imprisonment along with fine of Rs. 6,90,000/-, in the light of the settlement arrived between the parties.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court to allow this application and permit the compounding of the offences as alleged against the revisionist and this Hon'ble Court may be pleased to quash the judgment and order dated 02.04.2025 passed by Court of Session Judge Pithoragarh in Criminal Appeal No. 33 of 2024 "Girish Chand vs. Abhishek Basera & another", by which the appeal filed by revisionist against judgment dated 06.05.2024 has been dismissed and the conviction awarded by trial court has been affirmed passed by Learned Chief Judicial Magistrate, Pithoragarh in Complaint Case No. 2031 of 2022 " Abhishek Basera vs. Girish Chand" Under Section 138 of Negotiable Instruments Act by which revisionist has been convicted under Section 138 of Negotiable Instruments Act sentencing to undergo 6 Months Imprisonment along with fine of Rs. 6,90,000/-, in the light of the settlement arrived between the parties.

(Akshay Joshi)

Advocate

Counsel for Respondent

(Prabha Naithani) (Avidit Noliya)

Advocate

Counsel for Revisionist"

**Application for waiver of penalty imposed under Section 138 of the
Negotiable Instruments Act, 1881.**

In

“Criminal Revision No. 198 Of 2025

Girish Chand vs Abhishek Basera

Most respectfully sheweth:

1. That the applicant/accused was prosecuted under Section 138 of the Negotiable Instruments Act, 1881, in the above-mentioned case.
2. That during the pendency of the aforementioned revision, the revisionist has shown positive and bona fide intentions by mention any actions taken to resolve the matter, such as payment of the cheque amount, settlement with the complainant/respondent.
3. That the accused has already paid the amount to the complainant/respondent which constitutes the full and final settlement of the disputed cheque amount. The complainant/respondent has accepted the payment and has no further claims against the accused.
4. That both parties have mutually agreed to settle the matter amicably, and a compromise has been reached. The complainant/respondent has also filed a compounding application for the disposal of complaint under Section 138 NI Act.
5. That the penalty imposed upon the accused is disproportionate considering the amicable settlement of the matter, and the accused has acted in good faith to resolve the dispute.
6. That the Revisionist belong to a very poor family and is currently working as the farmer, and that the amount of Rs. 6,90,000/- which was given to the Respondent was also borrowed from another person for the purpose of resolving the present case.
7. That the Revisionist is suffering from asthma and is presently undergoing treatment, and is taking regular medication for the said ailment.
8. In light of Madhya Pradesh State Legal Services Authority vs Prateek Jain & Anr(2014) 10 SCC 690, the penalty which was imposed on the accused may kindly be waived off.
9. That in view of the amicable settlement and the payment made, it is in the interest of justice that the penalty imposed on the accused be waived or reduced accordingly.

PRAYER

In light of the above, it is most respectfully prayed that this Hon'ble Lok Adalat may be pleased to:

- a) Waive the penalty imposed upon the accused under Section 138 of the Negotiable Instruments Act, 1881, in the interest of justice; or
- b) Reduce the penalty amount to a nominal sum, considering the settlement between the parties; or
- c) Pass any other order as this Hon'ble Court may deem fit and proper under the circumstances of the case.

Date: 13-August-2025

Place: Nainital

Prabha Naithani
Advocate
Counsel for the revisionist
En. Roll No.- 111/2025
Bar No. P-404

Vishwast Kandpal
Advocate
Counsel for the Respondent
(Holding Brief of Adv. Akshay Joshi)
En. Roll No.-228/2018
Bar No.- V-1250"

5. The contents of the compromise were read and explained to both the parties. Both the parties have verified that the contents of the compromise are correct and the complainant has also verified that he has received the amount which was to be paid by the revisionist in accordance with the compromise.

6. In view of the above compromise, the conviction and sentence passed by the learned Chief Judicial Magistrate as well as by the learned Sessions Judge, Pithoragarh is liable to be set aside and the fine imposed upon the revisionist is also liable to be set aside and the revisionist is liable to be acquitted of the charge under Section 138 of the Negotiable Instruments Act.

7. The learned counsel for the parties further contended that both the parties have entered into a compromise and both the parties have no ill will against each other and now they are living in very friendly terms. Apart from that, he has made an application for seeking the exemption of the penalty. The perusal of the ground and the

contention of the learned counsel for the parties further allows us to take the decision that the penalty should be waived.

8. In view of the above, Criminal Revision is liable to be disposed of in terms of the compromise. The compromise as indicated above and the affidavit filed with the compromise be made part of the award.

9. The Criminal Revision is disposed of accordingly and in terms of the compromise accordingly.

10. All pending applications stand disposed of accordingly.

(Mahesh Chandra Pant, Adv./Member)
13.08.2025

(J.C.S.Rawat, J (Retd.))
13.08.2025