IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (AGAINST CONVICTION - NEGOTIABLE INSTRUMENT ACT) NO. 2392 of 2026

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PRAKASH AMARATBHAI AAL OWNER OF MAA CORPORATION

Versus

STATE OF GUJARAT & ANR.

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Appearance:
MR YASH K DAVE(10269) for the Applicant(s) No. 1
YASHKUMAR J TRIVEDI(9624) for the Applicant(s) No. 1
MR NIRAV K PADHIYAR(5678) for the Respondent(s) No. 2
MR. MANAN MEHTA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE S.V. PINTO**

Date : 23/10/2026

ORAL ORDER

1. Rule, learned APP waives service of rule for the respondent-State. Learned advocate Mr. Nirav Padhiyar waives service of rule for the respondent no. 2.

2. Learned advocate Mr. Yash Dave for the applicant and learned advocate Mr. Nirav Padhiyar for the respondent no. 2 jointly submit that the matter is amicably settled between the parties as the applicant has given the entire agreed amount to the respondent no. 2 and therefore, the present application be taken up for final hearing and be disposed of accordingly.

3. In view of the above submissions made by the learned

advocates for the respective parties, the matter is taken up for final hearing.

4. By way of the present application, the applicant – accused has prayed to quash and set aside the judgment and order of conviction passed by the learned 6th Additional Sessions Judge, Banaskantha at Deesa in Criminal Appeal No. 30/2026 dated 28.02.2026 confirming the judgment and order passed by the learned Additional Chief Judicial Magistrate, Deesa in Criminal Case No. 4548/2021 dated 19.01.2026, whereby, the present applicant - accused was sentenced simple imprisonment for one year and fine of Rs. 31,63,570/-, and in default, simple imprisonment for three months for the offence under Section 138 of the Negotiable Instruments Act, 1881.

5. Heard learned advocate Mr. Yash Dave for the applicant and learned advocate Mr. Nirav Padhiyar for the respondent no. 2 and learned APP Ms. C.M. Shah for the respondent – State.

6. Learned advocate Mr. Yash Dave for the applicant

submits that the dispute between the parties has been amicably settled and the respondent no.2 – original complainant has received the settlement amount and does not wish to prosecute the matter further. The compromise has been entered into voluntarily, without any coercion, undue influence or pressure and, therefore, the respondent no.2 has no objection if the impugned judgment and order of conviction as well as all other consequential proceedings arising pursuant thereto are quashed against the applicant – accused

7. Learned advocate Mr. Mr. Nirav Padhiyar submits that the respondent no. 2 – original complainant – Desai Dahyabhai Malabhai is present in-person before this Court. Learned advocate produces the affidavit filed by the respondent no. 2 which is taken on record.

8. Learned APP Mr. Manan Mehta for the respondent no.1 – State submits that the impugned judgment and order of sentence is just and proper; however, considering the fact

that the dispute between the parties is amicably settled, necessary order may be passed.

9. The respondent no.2 – original complainant is present in-person before this Court, and on inquiry, submits that the dispute between them has been settled amicably and the entire settlement amount of has been received and he does not wish to prosecute the matter further. He admits to the contents of the affidavit and submits that the compromise has been entered into his own free will without any fear, threat and coercion.

10. The affidavit filed by the respondent no. 2 – original complainant reads as under:

> *I, Desai Dahyabhai Malabhai, Proprietor of Joitabhai Malabhai Co., Age: 48 yrs, Male, Resi. at Sarthak Bunglow, Deesa Patan Highway, Tal. Deesa, Dist. Banaskantha, Respondent No. 2 herein, do hereby solemnly affirm and state on oath that:*
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> *1. I say and submit that I am the original complainant and I had filed the proceedings against the applicant herein by way of filing the Criminal Case No. 4548 of 2021 under section 138 of N.I. Act before the Ld. Judicial Magistrate First Class court, Deesa, therefore I am aware about the facts of the case and filing this affidavit in support of the application.*
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> *2. I say that the Ld. Judge tried the case and was pleased to convict the applicant for the offence punishable under the*

provisions of section 138 of NI Act and sentenced to undergo simple imprisonment of One Year and to pay compensation of Rs. 31,63,570/- to the complainant and in default of the same, to undergo further Simple imprisonment of Three Month by Judgement and Order Dt. 19.01.2026 in Criminal Case No. 4548 of 2021 and which came to be confirmed by the Ld. Addl. Session Court Banaskantha at Deesa vide order and judgment dated 28.02.2026 passed in Criminal Appeal No. 30 of 2026.

3. At the outset I say and submit that I am filing this Affidavit in support of the application. I say and submit that after the Judgement and Orders of conviction passed by the Ld. Addl. Sessions Court, Banaskantha at Deesa, the applicant and I have settled the dispute amicably with the interference of our mediators and entered into compromise and the issue involved in the impugned complaint have been settled between us with the intervention of local persons and therefore the impugned Judgement and Orders of conviction passed by the Ld. Judicial Magistrate First Class, Deesa, in Criminal Case No. 4548 of 2021 which is confirmed in Criminal Appeal No. 30 of 2026 by Ld. Addl. Session Court Banaskantha at Deesa may kindly be quashed on the ground of settlement arrived at between me and the applicant.

4. I say and submit that the Criminal Case No. 4548 of 2021 was filed by me therefore, I am filing this affidavit with my free will and consent without there being any undue influence or pressure and I have no objection if the present application is allowed and I would also request the Hon'ble Court to quash and set aside the Judgements and Orders Dt. 19.01.2026 passed by the Ld. Judicial Magistrate First Class, Deesa, in Criminal Case No. 4548 of 2021 and order dated 28.02.2026 passed in Criminal Appeal No. 30 of 2026 by Ld. Addl. Session Court Banaskantha at Deesa on the ground of settlement and the applicant may be acquitted.

5. That what is stated hereinabove is true and correct to the best of my knowledge and I believe the same to be true and I state the same on solemn oath.

Solemnly affirmed at Ahmedabad on this 23rd day of October, 2026.

11. Section 147 of the N.I.Act makes offences under the Act compoundable notwithstanding anything contained in

the Code of Criminal Procedure. The Hon'ble Supreme Court in **Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663**, recognized that the primary object of proceedings under Section 138 N.I. Act is compensatory in nature and encouraged compounding even at later stages subject to payment of appropriate costs.

12. Recently, in **Gian Chand Garg v. Harpal Singh and Another, 2025 SCC OnLine SC 2317**, the Hon'ble Supreme Court has observed in Para Nos. 5 to 10 as under :

> ***"5.*** *Be that as it may, at the outset, it is apposite to advert to settled position of law enunciated by this Court with regard to nature of proceedings under Section 138 of N.I.Act and the legal consequences that ensues upon a compromise being entered into between the parties.*
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> ***6.*** *This court in* ***M/s. Meters and Instruments Private Limited & Anr. v. Kanchan Mehta, 2018 (1) SCC 560*** *held that the nature of offence under section 138 of the N.I.Act is a mainly a civil wrong and has been made specifically compoundable by section 147 of the N.I.Act which was inserted by the 2002 amendment to the said Act. The relevant observations have been extracted for reference:*
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> > *"This Court has noted that the object of the statute was to facilitate smooth functioning of business transactions. The provision is necessary as in many transactions' cheques were issued merely as a device to defraud the creditors. Dishonor of cheque causes incalculable loss, injury and inconvenience to the Vide the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988*

payee and credibility of business transactions suffers a setback. At the same time, it was also noted that nature of offence under Section 138 primarily related to a civil wrong and the 2002 amendment specifically made it compoundable."

7. *It is also apposite to reiterate the observations in* ***P. Mohanraj & Ors. v. M/s. Shah Brothers Ispat Pvt. Ltd. (2021) 6 SCC 258*** *wherein this court referred the offence under section 138 N.I.Act as a "Civil Sheep" in "Criminal Wolf's Clothing" which meant issues agitated by the parties under the said provision are of private nature which are brought within the sweep of criminality jurisdiction in order to strengthen the credibility of the negotiable instruments.*

8. *Further in* ***M/s. Gimpex Private Limited v. Manoj Goel (2021) SCC OnLine SC 925*** *this court took into consideration the effect of settlement arrived between the parties and observed that:*

"38. When a complainant party enters into a compromise agreement with the accused, it may be for a multitude of reasons - Higher Compensation, faster recovery of money, uncertainty of trial and strength of complaint, among others. A complainant enters into a settlement with open eyes and undertakes the risk of the accused failing to honour the cheques issued pursuant to the settlement, based on certain benefits that the settlement agreement postulates. Once parties voluntarily entered into such an agreement and agree to abide by the consequence of non-compliance of the settlement agreement, they cannot be allowed to reverse the effects of the agreement by pursuing both the original complaint and the subsequent complaint arising from such non-compliance. The Settlement agreement subsumes the original complaint……"

9. *In* ***B.V. Seshaiah v. State of Telangana & Anr. (2023) SCC OnLine SC 96*** *this court was of the view that when parties enter into an agreement and compound the offence, they do so to save themselves from the process of litigation and when such a step is taken by the parties, the law very well allows them to do so. Hence, the courts cannot override such compounding and impose its will.*

> ***10.*** *Therefore, it is very clear that although dishonour of cheque entails criminal consequence, the legislature by virtue of section 147 of the N.I.Act has made it compoundable notwithstanding the provisions of the Code of Criminal Procedure, 1973 and the same can be compounded at any stage of the proceedings especially when the parties have themselves arrived at a voluntary compromise."*

13. Further, in **Sanjabij Tari v. Kishore S. Borcar and Another (Criminal Appeal No. 1755 of 2010**, **decided on 25.09.2025)**, the Hon'ble Supreme Court modified the earlier guidelines relating to compounding costs and observed that where payment is made before the Sessions Court or High Court in revision/appeal, compounding may be permitted on payment of 7.5% by way of cost.

13. So far as the objection that post-conviction compromise may dilute the rigour of criminal process is concerned, the same does not survive in view of the law laid down in **Gian Chand Garg (supra)**, wherein the Hon'ble Supreme Court specifically held that compounding under Section 138 N.I. Act can be permitted even after conviction and that such exercise does not violate the statutory scheme but rather advances the object of ensuring payment

and reducing unnecessary litigation. Thus, permitting the present compromise does not offend the principles laid down in **Damodar S. Prabhu (Supra)** or **Sanjabij Tari (Supra)**; rather, the same is subject to payment of costs in terms of the modified guidelines.

15. Accordingly, the present application is allowed.

16. The judgment and order of conviction passed by the learned 6th Additional Sessions Judge, Banaskantha at Deesa in Criminal Appeal No. 30/2026 dated 28.02.2026 confirming the judgment and order passed by the learned Additional Chief Judicial Magistrate, Deesa in Criminal Case No. 4548/2021 dated 19.01.2026 under Section 138 of the N.I.Act are hereby quashed and set aside on the basis of compromise between the parties.

17. However, as the settlement has been arrived at the stage of proceedings before this Court, the applicant shall deposit costs equivalent to 7.5% of the settlement amount before the District Service Legal Authority, Banaskantha by

any mode, within a period of six weeks from the date of his release and shall place proof of such deposit on record.

18. Subject to deposit of the aforesaid costs, the offence shall stand compounded and the applicant shall stand acquitted of the charge under Section 138 of the N.I.Act.

19. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(S. V. PINTO,J)

VASIM S. SAIYED

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: VASIM SHABBIR SAIYED(HC01902), PRIVATE SECRETARY, at High Court of Gujarat on 23/10/2026 17:34:01