

(2024) 05 GUJ CK 0069

In the Gujarat High Court

Case No : R/Criminal Misc.Application (For Quashing & Set Aside Fir/Order) No.
10005 Of 2024

Bhavikkumar Nalinbhai Gohil

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 31-05-2024

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Code Of Criminal Procedure, 1973 — Section 357(3)

Citation : (2024) 05 GUJ CK 0069

Hon'ble Judges : M. K. Thakker, J

Bench : Single Bench

Advocate : Raxit J Dholakia, Priyank A Trivedi, Bhavin Raiyani, M.D. Metha

Final Decision : Allowed

Judgement

M. K. Thakker, J

1. Rule. learned APP waives service of notice of rule on behalf of the respondent-State. Learned advocate Mr.Bhavin Raiyani on behalf of the complainant is permitted to file Vakalatnama on behalf of the complainant.

2. This application has been filed challenging the order dated 12.03.2024 passed by the learned Principal Senior Civil Judge & Additional Chief Judicial Magistrate, Surendranagar in Criminal Case No. 2402 of 2023 under Section 138 of the Negotiable Instrument Act whereby, the learned Magistrate was pleased to convict the applicant herein under Section 138 of the Negotiable Instrument Act and had further ordered the Petitioner to undergo simple imprisonment for a period of 2 years. The learned Magistrate also passed the order under Section 357(3) for payment of Rs.3,50,000/- as compensation, failing which, the Petitioner is further ordered to undergo 6 months simple imprisonment.

2. Learned advocate Mr.Raxit J Dholakia has submitted that the whole amount is deposited to the complainant and dispute has already been settled between the

parties and therefore, he prayed to allowed this Revision application by quashing and setting aside the impugned judgment and order of conviction.

3. On the other hand, learned advocate Mr.Bhavin Raiyani has filed the affidavit on behalf of the complainant stating that the amount is received from the applicant and the complainant is not having any objection if this application is allowed.

4. Considering the submission made by the learned advocates of the respective parties, this court deem is fit to allow this application by quashing and setting aside the impugned judgment and order of conviction.

5. The present applicant is directed to deposit the amount of Rs. 50,000/- pursuant to the judgment passed by the Hon'ble Supreme Court in the case of Damodar S. Prabhu Vs. Sayed Babalal H reported in 10 5 SCC 663 before the Legal Service Authority, High Court of Gujarat within a period of 2 weeks from today. Revision Application is allowed accordingly.