

(2026) 03 GUJ CK 0632

In the Gujarat High Court

Case No : R/Criminal Revision Application (Against Conviction - Negotiable Instrument Act) No. 265 Of 2017

Govindbhai Bhulabhai Prajapati

APPELLANT

Vs

State Of Gujarat & Anr

RESPONDENT

Date of Decision : 23-03-2026

Acts Referred:

Negotiable Instruments Act, 1881 — Section 138
Probation of Offenders Act, 1958 — Section 4

Citation : (2026) 03 GUJ CK 0632

Hon'ble Judges : Hasmukh D. Suthar, J

Bench : Single Bench

Advocate : Hemang S Bharwad, Rohan Raval, Shrikar H Bhatt

Final Decision : Disposed Of

Judgement

Hasmukh D. Suthar, J

1) By way of present revision application the applicant has prayed for quashing and setting aside the judgment and order of conviction and sentence dated 03.03.2017 passed by the learned 2nd Additional Sessions Judge, Himmatnagar, District -Sabarkantha in Criminal Appeal No.49 of 2014, whereby, the trial Sessions Judge has dismissed the appeal by upholding the order of conviction and sentence dated 07.06.2014 in Criminal Case No.859 of 2011, passed by the learned 2nd Additional Chief Judicial Magistrate, Himmatnagar, holding the applicant guilty for the offence punishable under Section 138 of the Negotiable Instruments Act (which shall hereinafter be referred to as "NI Act" for short) and sentenced to undergo simple imprisonment of one year and also directed the applicant to pay compensation of Rs.5,30,000/- to the complainant and in default of payment of fine to undergo further simple imprisonment of three months. Hence, the present Revision Application is filed by the applicant-accused.

2) When the matter is called out the learned Advocate for the applicant remained absent. Learned Advocate Mr. Shrikar H. Bhatt, for the respondent no.2 -

complainant appeared and submitted that the complainant has received the amount and dispute is settled. It appears that the applicant is not interested to proceed with the matter and hence the averments made in the revision application is considered. Perusing the concurrent findings and the fact that the impugned amount has already been paid to the complainant.

3) In view of above once the amount being deposited and as the offence under Section 138 of the NI Act is quasi-criminal in character and is compoundable and punishment under the NI Act is not a means of seeking retribution but is more a means to ensure payment of money and to promote credibility of cheques as a trustworthy substitute for cash payment. In absence of any perversity and no ground is found to upset the concurrent findings of the learned trial Court and Appellate Court and it is not open for Revisional Court to re-analyse and re-interpret the evidence in revisional jurisdiction. No case is made out to interfere with the reasons assigned by both the Courts.

4) At the same time this Court has taken into consideration the object of the Act as accused made payment and complainant has received the same, hence, in view of judgment of the Hon'ble Supreme Court Sanjabij Tari Vs Kishore S. Borcar, Neutral Citation 2025 INSC 1158, maintaining the conviction this Court is inclined to extend the benefit under the Probation of Offenders Act, 1958, to the applicant-accused.

5) Accordingly, the applicant – accused is directed to be released on probation of good conduct under Section 4 of the Probation of Offenders Act, upon execution of probation bond in sum of Rs.20,000/-, with one surety of like amount for a period of one (1) year.

6) It is hereby further directed that the applicant - accused shall receive the sentence as and when called upon till the said period and the applicant shall maintain peace during above mentioned period of one (1) year.

7) The above mentioned bond under Section 4 of the Probation of Offenders Act, be submitted before the learned trial Court within 15 days of passing of this judgment.

8) It is kept open for the complainant that in case of any defect he shall revive the proceedings i.e. revision application.

9) Accordingly, present revision application is disposed of. Record and proceedings, if any, be sent back to the concerned Court forthwith.