

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4815 OF 2025
WITH
WRIT PETITION NO. 4808 OF 2025
WITH
WRIT PETITION NO. 4822 OF 2025

Cambium Boitech Private Ltd
Through Its Authorized Signatory
Nilkamal Amarnath Za

... Petitioner

Vs

1. The State of Maharashtra
2. Shivajirao Madhavrao Jadhav

... Respondents

Mr. Narayan Gopinath Rokade a/w. Dipak Vyavahare, Siddharth R. Ghodke, Ramchandra Wagh, Mrunmai K. Rokade and Swapnil Kalokhe, for the Petitioner.

Ms. Savita M. Yadav, APP, for Respondent No. 1-State.

Mr. Rohan Dilip Kaiche, for Respondent No. 2.

CORAM : MADHAV J. JAMDAR, J.
DATE : 10th JUNE, 2026.

JUDGMENT :-

1) Heard Mr. Rokade, learned counsel appearing for the Petitioner, Mr. Kaiche, learned counsel appearing for Respondent No. 2 and Ms. Yadav, learned APP appearing on behalf of the State.

2) By these writ petitions, the order challenged is rejection of the application seeking acquittal. The details of the impugned orders in these writ petitions are set out in tabular form as under :

Writ Petition No.	Appeal No.	Compla int No.	Cheque No.	Cheque Amount	Fine Amount	Deposited Amount	7.5% of the Amount	Extra Amount Added Before this Court
Criminal Writ Petition No. 4815/ 2025	Crimina l Appeal No. 30/ 2024	Summa ry Crimina l Case No. 77/ 2018	000606	Rs. 1,13,176/ -	Rs. 1,60,000/-, out of which ₹ 1,55,000/- to be paid to complainan t u/s 357(1) (B) Cr.PC. and Rs. 5,000/- to be paid to the Government towards prosecution expenses u/s 357(1) (a) Cr.PC.	Rs. 1,60,000/ -	Rs. 8,488/-	Rs. 30,000/-
Criminal Writ Petition No. 4808/ 2025	Crimina l Appeal No. 31/ 2024	Summa ry Crimina l Case No. 78/ 2018	000607	Rs. 1,13,176/ -	Rs. 1,60,000/-, out of which ₹ 1,55,000/- to be paid to complainan t u/s 357(1) (B) Cr.PC. and ₹ 5,000/- to be paid to the Government towards prosecution expenses u/s 357(1)	Rs. 1,60,000/ -	Rs. 8,488/-	Rs. 30,000/-

Writ Petition No.	Appeal No.	Compla int No.	Cheque No.	Cheque Amount	Fine Amount	Deposited Amount	7.5% of the Amount	Extra Amount Added Before this Court
					(a) Cr.PC.			
Criminal Writ Petition No. 4822/ 2025	Crimina l Appeal No. 32/ 2024	Summa ry Crimina l Case No. 79/ 2018	000608	Rs. 1,13,176/ -	Rs. 1,60,000/-, out of which Rs. 1,55,000/- to be paid to complainan t u/s 357(1) (B) Cr.PC. and Rs.5,000/- to be paid to the Government towards prosecution expenses u/s 357(1) (a) Cr.PC.	Rs. 1,60,000/ -	Rs. 8,488/-	Rs. 30,000/-

3) It is the submission of Mr. Rokade, learned counsel appearing for the Petitioner that the cheque amount involved in each of these petitions is Rs.1,13,176/-. He submits that the Petitioner has already deposited an amount of Rs.1,60,000/- in each of the matters before the learned Appellate Court. In addition thereto, the Petitioner is willing to deposit a further sum of Rs. 30,000/- in each of the appeals pending before the learned Appellate Court. He submits that the Petitioner has no objection for withdrawal of said amount by Respondent No. 2. He further submits that the learned Additional Sessions Judge observed that the amount offered by the

Petitioner was not sufficient to compensate the complainant and, since the complainant was not willing to accept the said amount, the applications came to be rejected.

4) Mr. Rokade, learned counsel pointed out the judgment of the Supreme Court in *Sanjabij Tari v. Kishore S. Borcar and Another*¹ and, in particular, paragraphs 38 and 39 thereof. He submitted that this Court may set aside the impugned order and remand the applications to the learned Appellate Court for reconsideration for exercising powers under Section 255(2) and/or Section 255(3) of the Code of Criminal Procedure, 1973 (“*Code*”), or Section 278 of the Bharatiya Nyaya Sanhita, 2023. He further submitted that the benefit of the provisions of the Probation of Offenders Act, 1958 be given to the accused.

5) On the other hand, it is the contention of Mr. Kaiche, learned counsel appearing for Respondent No. 2 that as per Section 138 of the Negotiable Instruments Act, 1988 (“*NI Act*”), once the person is found to have committed an offence under Section 138 of the NI Act, he shall be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both. He submits that as the fine amount can extend to twice the amount of the cheque, the Petitioner is bound to pay twice the amount of the cheque and thereafter only, the order can be passed and therefore, no interference in

¹ 2025 SCC OnLine SC 2069

the impugned orders is warranted.

6) Before dealing with the submissions of both learned counsel, it is necessary to set out certain relevant factual aspects :

i. The admitted position is that the Petitioner had been purchasing diesel from Respondent No. 2 from time to time and had been making payments towards the said transactions on a regular basis. Learned counsel for the Petitioner has placed on record a chart setting out the particulars of the transactions between the parties. The same is reproduced hereinbelow for ready reference:

Date	Particulars of Events
24/03/2017	Petitioner purchased diesel from Respondent No.2 and made part payment of Rs.1,25,981/-.
06/04/2017	Payment of Rs.1,45,605/- made by Petitioner to Respondent No.2.
19/05/2017	Payment of Rs.49,000/- made by Petitioner.
21/05/2017	Payment of Rs.1,56,205/- made by Petitioner.
22/05/2017	Payment of Rs.1,00,000/- made by Petitioner.
29/05/2017	Payment of Rs.1,56,205/- made by Petitioner.
01/06/2017	Payment of Rs.1,00,000/- made by Petitioner.
09/06/2017	Payment of Rs.75,943/- made by Petitioner.
16/06/2017	Payment of Rs.80,000/- made by Petitioner.

Date	Particulars of Events
29/06/2017	Payment of Rs.1,00,000/- made by Petitioner.
12/07/2017	Payment of Rs.1,20,000/- made by Petitioner.

ii. The Petitioner issued three cheques dated 11th September 2017, 18th September 2017 and 30th September 2017 towards payment for the purchase of diesel. Each of the said cheques was for an amount of Rs. 1,13,176/-. Respondent No. 2 presented the said cheques for encashment through IDBI Bank, Pimpalgaon, on 28th November 2017. However, all three cheques came to be dishonoured on 30th November 2017 with the endorsement “Funds Insufficient”.

iii. Thereafter, Respondent No. 2 issued a statutory notice dated 27th December 2017 to the Petitioner. The said notice was duly served upon the Petitioner. In response thereto, the Petitioner denied his liability and alleged misuse of the cheques in question.

iv. Subsequently, Respondent No. 2 instituted three separate complaints under Section 138 of the NI Act, particulars whereof are set out in the chart reproduced hereinabove.

v. Upon conclusion of the trial, the learned Judicial Magistrate First Class, Pimpalgaon, convicted the Petitioner in all the three cases and sentenced him to undergo simple

imprisonment for a period of three months. The Petitioner was also directed to pay a fine of Rs. 1,60,000/- in each case, out of which Rs. 1,55,000/- was directed to be paid to Respondent No. 2 as compensation and Rs. 5,000/- towards costs.

vi. The Petitioner preferred three separate appeals against the said judgment and order dated 6th May 2024 passed by the learned Judicial Magistrate First Class, Pimpalgaon, before the learned Sessions Judge, Niphad. By an order dated 6th June 2024, the learned Sessions Judge, Niphad, suspended the sentence under Section 389 of the Code, subject to the condition that the Petitioner deposit 20% of the cheque amount within a period of one month. In compliance with the said order, the Petitioner deposited 20% of the cheque amount by way of demand draft on 28th June 2024.

vii. Thereafter, on 30th May 2025, the Petitioner filed a pursis in the said appeals expressing his willingness to pay an amount of Rs. 1,32,364/-, being the cheque amount involved in each of the three appeals and seeking acceptance thereof.

viii. Subsequently, on 18th July 2025, the Petitioner filed an application before the learned Additional Sessions Judge, Niphad, stating that he was willing to pay a sum of Rs. 1,60,000/- and that the said amount had already been

deposited before the learned Appellate Court. On that basis, the Petitioner prayed for acquittal.

ix. The said applications filed in each of the Appeals came to be rejected by the impugned order dated 14th August 2025 passed by the learned Additional Sessions Judge, Niphad.

7) In view of the above factual aspects, Mr. Rokade, learned counsel appearing for the Petitioner submits that although the application filed by the Petitioner sought acquittal, the learned Appellate Court should have considered the same in the light of paragraph 38 of the decision of the Supreme Court in *Sanjabij Tari* (supra).

8) Before considering the decision of the Supreme Court in *Sanjabij Tari* (supra), it is also necessary to note that the Supreme Court, in *Damodar S. Prabhu Vs. Sayed Babalal H.*² has laid down guidelines governing the compounding of offences under Section 138 of the NI Act. The paragraphs Nos. 21 and 22 of the said decision are relevant which read as under :

21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after

² (2010) 5 SCC 663

several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount.

22. Let it also be clarified that any costs imposed in accordance with these Guidelines should be deposited with the Legal Services Authority operating at the level of the court

before which compounding takes place. For instance, in case of compounding during the pendency of proceedings before a Magistrate's Court or a Court of Session, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority.

(**Emphasis added**)

9) The guidelines laid down by the Supreme Court in ***Damodar S. Prabhu*** (supra) subsequently came up for consideration before the Supreme Court in ***Sanjabij Tari*** (supra). The Supreme Court observed that, in spite of issuance of the guidelines issued in ***Damodar S. Prabhu*** (supra), a large number of cheque dishonour cases continued to remain pending and that interest rates had substantially fallen over the years. In view thereof, the Supreme Court considered it appropriate to revisit and modify the said guidelines. The Supreme Court further considered situations where the complainant was not willing to consent to compounding of the offence and modified the earlier guidelines. Paragraph Nos. 38 and 39 of the judgment in ***Sanjabij Tari*** (supra), are relevant in the present case, which read as under :

38 Since a very large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, this Court is of the view

that it is time to 'revisit and tweak the guidelines'. Accordingly, the aforesaid guidelines of compounding are modified as under:-

(a) If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.

(b) If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.

(c) Similarly, if the payment of cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.

(d) Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount

39. This Court is of the view that if the Accused is willing to pay in accordance with the aforesaid guidelines, the Court may suggest to the parties to go for compounding. If for any reason, the financial institutions/complainant asks for payment other than the cheque amount or settlement of entire loan or other outstanding dues, then the Magistrate may suggest to the Accused to plead guilty and exercise the power under Section 255(2) and/or 255(3) of the [Cr.P.C.](#) or 278 of the BNSS, 2023 and/or give the benefit under the Probation of Offenders Act,

1958 to the Accused.**(Emphasis added)**

10) Thus, as per the aforesaid guidelines, the Supreme Court has, *inter alia*, directed that where the cheque amount is paid before the Sessions Court or the High Court in appeal or revision, the concerned Court may permit compounding of the offence subject to the accused paying costs equivalent to 7.5% of the cheque amount. The Supreme Court has further directed that, in a case where the complainant is not willing to consent to compounding, the Magistrate may suggest to the accused to plead guilty and thereafter exercise powers under Section 255(2) and/or Section 255(3) of the Code of Criminal Procedure, 1973, or Section 278 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and/or extend the benefit of the Probation of Offenders Act, 1958 to the accused.

11) Though the aforesaid directions are issued to the Magistrate, the same would equally apply at the appellate stage. This is because the guidelines framed by the Supreme Court in ***Sanjabij Tari*** (supra) govern compounding of offences under Section 138 of the NI Act, including before the Trial Court, the Appellate Court, the Revisional Court and even the Supreme Court and also contemplates exercise of powers under Section 255(2) and/or Section 255(3) of the Code of Criminal Procedure, 1973, or Section 278 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and/or

directions issued to extend the benefit of the Probation of Offenders Act, 1958 to the accused. All these powers can be exercised even at the Appellate Stage. Therefore, the directions contained in paragraph 39 of the judgment in *Sanjabij Tari* (supra) are squarely applicable to proceedings pending before the Learned Appellate Court.

12) In the aforesaid circumstances, the present writ petitions are disposed of by passing the following order:

- i. The impugned orders dated 14th August 2025 passed by the learned Additional Sessions Judge, Niphad, rejecting the applications filed by the Petitioner seeking acquittal in the respective criminal appeals, are quashed and set aside. The said applications are restored to the file of the learned Additional Sessions Judge, Niphad, for fresh consideration.
- ii. In addition to the amount of Rs.1,60,000/- already deposited by the Petitioner in each of the criminal appeals, the Petitioner shall deposit a further sum of Rs. 30,000/- in each of the said appeals within a period of eight weeks from today.
- iii. The learned Appellate Court shall consider and decide the applications filed by the Petitioner in the light of the directions contained in paragraph 39 of the judgment of the

Supreme Court in ***Sanjabij Tari*** (supra) after the deposit of said additional amount of Rs.30,000/- in each of the Appeals.

iv. In the event the learned Appellate Court passes an order in terms of paragraph 39 of the decision of the Supreme Court in ***Sanjabij Tari*** (supra), it shall also consider directing payment of costs to the District Legal Services Authority and payment of the balance amount to Respondent No. 2, in accordance with law.

v. All the contentions of the parties are expressly kept open.

13) All these Writ Petitions are disposed of in above terms.

(MADHAV J. JAMDAR, J.)