

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.501 OF 2026

APPLICANT :- Mr Ravi s/o Ramesh Muthal,
 Age 51 years, Occupation: Business,
 R/o Omkar Nagar, Near Sadhbhavana
 Nagar, Nagpur-440027.

..VERSUS..

RESPONDENTS :- 1) Mr. Avinash Shinde, Age :58 years,
 Occupation: Business, having place of
 business at Shop No.2, Shubhlaxmi
 Niwas, Opposite Patrakar Bhawan,
 Panchasheel Chowk, Dhantoli,
 Nagpur-440012.
 2) State of Maharashtra,
 through Secretary, Department of Law
 and Justice, Mantralaya Mumbai.

WITH

CRIMINAL APPLICATION (APL) NO.505 OF 2026

APPLICANT :- Mr Ravi Ramesh Muthal, Age 51 years,
 Occupation: Business, R/o Omkar
 Nagar, Near Sadhbhavana Nagar,
 Nagpur -440027.

..VERSUS..

RESPONDENTS :- 1) Mr. Avinash Shinde, Age: 58 years,
 Occupation: Business, having place of
 business at Shop No.2, Shubhlaxmi
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 Panchasheel Chowk, Dhantoli, Nagpur-
 440012.

- 2) State of Maharashtra, through Secretary,
Department of Law and Justice,
Mantralaya, Mumbai.

Mr. P.A. Gupta, counsel h/f Mr. Abhijeet Khare, counsel for applicant.
Mr. Anand Parchure, counsel for respondent in both the applications.
Mr. Nikhil Joshi, APP for respondent /State in both the applications

CORAM : URMILA JOSHI PHALKE, J.

DATE : 11/03/2026

ORAL JUDGMENT :

1. Heard.
2. **ADMIT.** Heard finally by consent of learned counsel appearing for the parties.
3. By these applications, the applicants are seeking quashing and setting aside the judgment of conviction and order of sentence passed against the applicant in Summary Criminal Case No.5457/2016, decided by 20th Judicial Magistrate First Class, Nagpur, on 06/05/2019, and confirmed up to this Court, under Section 138 of the Negotiable Instruments Act, 1881 (for short 'N.I. Act'), in view of the settlement arrived at with respondent No.1, by filing an application bearing No. 501/2026.
4. In Criminal Application (APL) No. 505/2026, which was not on board and was taken on board as the parties arrived at a settlement, by which the applicant is seeking quashing of the conviction and order of sentence passed against the applicant in Summary Criminal Case No. 5456/2016 decided by 20th Judicial Magistrate First Class, Nagpur on 06/05/2019 and confirmed up to this Court under N.I. Act, in view of the

settlement arrived at between the applicant and respondent No.1.

5. The brief facts which are necessary for the disposal of the applications are as under :-

The applicant is the original accused in two criminal complaints filed under Section 138 of the Negotiable Instruments Act, 1881, wherein the judgment of conviction and order of sentence have been passed against the applicant by the learned Trial Court in Summary Criminal Case No. 5456/2016, by which the applicant was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo simple imprisonment for six months and to pay fine of Rs. 25,50,000/-.

6. Being aggrieved and dissatisfied with the same, the applicant preferred an appeal bearing Criminal Appeal No. 151/2019. The said appeal came to be dismissed by the judgment and order dated 05/7/2022. Against the same, the present applicant preferred Criminal Revision Application No. 188/2022, which was also dismissed by this Court by judgment and order dated 18/11/2024.

7. In another Criminal Application No. 501/2026, is preferred by the applicant as he has convicted by the Judicial Magistrate First Class, Nagpur, in Summary Criminal Case No. 5457/2016 by judgment and order dated 06/05/2019, by which he was convicted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for six months and to pay compensation of Rs. 1 Crore.

8. Being aggrieved and dissatisfied with the same, the applicant preferred an appeal bearing Criminal Appeal No. 150/2019, which came to be dismissed by judgment and order dated 5/7/2022, and the revision preferred against the said judgment bearing Criminal Revision

Application No. 189/2022, also came to be dismissed on 18/11/2024.

9. Now the applicant and non-applicant have come before this Court with a contention that during pendency of these revisions, settlement talks were going on, but it could not be finalized, and after dismissal of the revisions now it came to be finalized and parties have arrived at the settlement. In view of the settlement, it is submitted that conviction and order of sentence deserves to be quashed and set aside.

10. The parties are present before the Court. The contentions raised in the applications have been personally verified from them, and they have agreed and accepted the terms and the settlement.

11. Now the issue raised in this proceedings is whether, after confirmation of the conviction by the First Appellate Court as well as by this Court, whether power under Section 482 of Cr.P.C. can be exercised to quash the conviction when no proceedings are pending before any Court.

12. The learned counsel for the applicant placed reliance on the decision of the Allahabad High Court in the case of ***Rishi Mohan Srivastava Vs State of U.P and another Case No. 516/2021 decided on 13/08/2021***, wherein this Court issue was raised and the Allahabad High Court has considered the catena of decision and in paragraph-27 observed that, in reference to offence under Section 138 of N.I. Act read with Section 147 of the said Act, the parties are at liberty to compound the matter at any stage, even after the dismissal of the revision application. Even a convict undergoing imprisonment with the liability to pay the amount of fine imposed by the Court and/or under an obligation to pay the amount of compensation if awarded, as per the scheme of N.I. Act, can compound the matter. The complainant i.e. person or persons affected, can pray to the Court that the accused, on compounding of the

offence, may be released by invoking jurisdiction of this Court under Section 482 Cr.P.C. If the parties are asked to approach the Apex Court, then what will be situation is a question which is required to be considered in the background of another accepted progressive and pragmatic principle accepted by our Courts that if possible, the parties should be provided justice at the door step. The phrase "justice at the door step" has taken the Court to think and reach to a conclusion that it can be considered and looked into as one of such special circumstances for the purpose of compounding the offence under Section 147 of the N.I. Act.

13. This aspect has also been considered by the Division Bench of the Himachal Pradesh High Court as the reference was made by the Single Bench or before the Division Bench whether power under Section 482 of Cr.P.C. can be exercised to quash the conviction when no proceedings are of pending before any Court.

14. While answering the said reference, the Division Bench of the Himachal Pradesh High Court in the case of *Chune Ram Vs Brikam Chand in Cr.MMO No. 188 of 2025 decided on 13/11/2025*, has considered the question of law and reformulated the same as under :-

“Whether the power under Section 528 BNSS can be exercised by the High Court for compounding the offence under Section 147 of the Negotiable Instruments Act and to quash the conviction finally affirmed by the High Court under Section 138 of the Negotiable Instruments Act, when no proceedings are pending before any Court.”

15. Thereafter, the Division Bench of the Himachal Pradesh High Court has considered the provision i.e. Chapter XVII of the Negotiable Instrument Act, was inserted by the Banking Public Financial Institutions

and Negotiable Instruments Laws (Amendment) Act, 1988 (66 of 1988) with effect from 01.04.1989 dealing with "of penalties of in case of dishonor of certain cheques for insufficiency of funds in the accounts", by which Sections 138 to 142 of the N.I. Act, were inserted for providing punishment for "dishonor of cheque". Again, the N.I. Act, was further amended by the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 with effect from 06.02.2003, which introduced Section 147 of the NI Act to make the offences under the Negotiable Instruments Act, compoundable. In this regard, the learned Amicus Curie invited the attention of this Court to the "Statement of Objects and Reasons of the Amendment Act, 2002 of the Negotiable Instruments Act, which reads as follows:

"The Negotiable Instruments Act, 1881 was amended by the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 wherein a new Chapter XVII was incorporated for penalties in case of dishonour of cheques due to insufficiency of funds in the account of the drawer of the cheque. These provisions were incorporated with a view to encourage the culture of use of cheques and enhancing the credibility of the instrument. The existing provisions in the Negotiable Instruments Act, 1881, namely Sections 138 to 142 in Chapter XVII have been found deficient in dealing with dishonour of cheques. Not only the punishment provided in the Act has proved to be inadequate, the procedure prescribed for the Courts to deal with such matters has been found to be cumbersome. The Courts are unable to dispose of such cases expeditiously in a time bound manner in view of the procedure contained in the Act."

16. To consider the scope of compounding the offences under Section 147 of the N.I. Act and the powers of the High Court under Section 482 of the Cr.P.C. /Section 528 of BNSS, with reference to Section 138 of N.I. Act, it is fundamental to take into consideration the Statement of Objects and Reasons of the Amendment Act, 2002 and the intention of the legislature with which it was enacted.

17. The Division Bench of Himachal Pradesh High Court has taken into consideration the catena of decisions and observed in para-21 that “ thus, the Hon'ble Supreme Court has time and again reiterated that the compounding of offence under Section 138 of the N.I. Act, through Section 147 of the N.I. Act, can be given effect to even at a later stage of the proceedings, subject to the parties agreeing to an appropriate compensation. Further, taking into consideration the object of Section 138 and 147 of the N.I. Act, there cannot be any reason to refuse to record a compromise entered into between the parties to compound the offence under Section 138 of the N.I. Act. The offence under Section 138 of the N.I. Act, is only a civil wrong. The said offence is primarily concerned with private parties and therefore, such an offence cannot be treated at par with the other criminal offence(s). In such offences, the parties are always permitted to enter into a compromise so as to bring an end to the long dispute”.

18. The relevant provision under Section 147 of the N.I. Act, is reproduced as under :-

"147. Offences to be compoundable. - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."

19. The above provision indicates that it begins with a non-obstante clause and the offence under Section 138 of the N.I. Act is compoundable under Section 147 of the said Act notwithstanding anything contained in the Code of Criminal Procedure, 1973.

20. In this context, we may also deal with Section 5 of the CrPC/BNSS, which has a bearing on the issue before this Court which provides that nothing contained in the Code of Criminal Procedure shall,

in the absence of a specific of provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

21. Thus, the reading of Section 5 of the CrPC/BNSS reveals that Section 147 of the N.I. Act will have an overriding effect over the provisions of Section 320 (9) of Cr.P.C.

22. In the case of *K.M. Ibrahim Vs K.P. Mohammed reproted in 2010 (1) SCC 798*, wherein it has been held that, as far as non-obstante clause included in Section 147 of the N.I. Act is concerned, it being a special Statute, the provisions of Section 147 of the N.I. Act will have an over-riding effect over the provisions of the Cr.P.C. relating to the compounding of offences. The relevant portion of the .aforesaid judgment reads as under:

"13. As far as the non obstante clause included in Section 147 of the 1881 Act is concerned, the 1881 Act being a special statute, the provisions of Section 147 will have an overriding effect over the provisions of the Code relating to compounding of offences. The various decisions cited by Mr. Rohatgi on this of issue do not add to the above position.

14. It is true that the application under Section 147 of the Negotiable Instruments Act was made by the parties after the proceedings had been concluded before the appellate forum. However, Section 147 of the aforesaid Act does not bar the parties from compounding an offence under Section 138 even at the appellate stage of the proceedings. Accordingly, we find no reason to reject the application under Section 147 of the aforesaid Act even in a proceeding under Article 136 of the Constitution.

15. Since the parties have settled their disputes, in keeping with the spirit of Section 147 of the Act, we allow the parties to compound the offence, set aside the judgment of the Courts below and acquit the appellant for the charges against him."

23. Thus, the Division Bench of the Himachal Pradesh High Court came to the conclusion that, in view of the aforesaid discussion, the inherent power under Section 482 of Cr.P.C./ Section 528 of BNSS is available to be exercised by the High Court for compounding the offence under Section 138 of the N.I. Act only with the explicit consent of the complainant or the person aggrieved. In its considered opinion, when parties to the offence under Section 138 of the N.I. Act enter into compromise, it should be given effect to under Section 147 of the Act at any stage of the proceedings, even after conviction has been finalized by the High Court. The failure to give effect to such compromise would render the import of Section 147 of the Act meaningless. If this Court does not permit compounding of the offence under Section 138 of the Act through Section 147 of the Act on the ground that the conviction has reached its finality, it would result in grave injustice being committed against the parties, who would be persuaded to continue a proceeding, which neither party of intends or would benefit from. Moreover, it would discourage the parties from entering into compromise and would operate against the intention of the Legislature to promote mutual settlement of the offence under Section 138 of the N.I. Act.

24. In view of the above observations of the Division Bench of Himachal Pradesh High Court, and in view of the settled principle laid down by the Hon'ble Apex Court that the compensatory aspect of remedy shall have priority over the punitive aspect, and the Courts should encourage compounding of offences under the N.I. Act, when the parties are willing to settle the dispute.

25. In view of that, if the parties are required to approach the Hon'ble Apex Court to compound the offence, it will merely have an effect of delaying in justice. In the light of observations of the Division Bench of Himachal Pradesh High Court, it would be appropriate to

permit the applicants and the non-applicant to compound the offence. In view of that, both the applications deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] The criminal applications are **allowed**.
- b] The conviction and order of sentence passed in Summary Criminal Case No. 5456 of 2016 passed by the 20th Judicial Magistrate First Class, Nagpur, on 06/05/2019, and confirmed in Criminal Appeal No. 151/2019 by judgment and order dated 5/7/2022, and further confirmed by this Court in Criminal Revision No. 188/2022 by order dated 18/11/2024, are hereby quashed and set aside as against the present applicant, in view of the settlement.
- c] The Criminal Application (APL) No. 501/2026 is also **allowed**, and the conviction and order of sentence passed against the applicant in Summary Criminal Case No. 5457/2016 passed by 20th Judicial Magistrate First Class, Nagpur, on 06/5/2019, and confirmed by First Appellate Court i.e. Additional Sessions Judge, Nagpur in Criminal Appeal No. 150/2019, and confirmed in Criminal Revision No. 189/2022 by order dated 18/11/2024, are hereby quashed and set aside in view of a settlement.
- d] The applicant is acquitted from both the cases.

(URMILA JOSHI PHALKE, J.)