Uma

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.29 OF 2026
IN
CRIMINAL REVISION APPLICATION NO.1054 OF 2025 (F)

Shri. Ajit Uday Salaskar,
S/o. Shri. Uday Salaskar,
37 years of age, married,
Indian National,
R/o. House No.1922/2,
Near MRF Gate 2, Dhatwada,
Usgao, Ponda, Goa. ... APPLICANT

Versus

1. The VPK Urban Co-op.
Credit Society Ltd., Having
its Head Office at VPK Bhavan,
At Mardol, Ponda, Goa, 403401.
Represented by Shri. Pundalik Rama
Palyekar, aged 38 years, R/at Ponda, Goa.

2. State of Goa,
Through The Public Prosecutor,
High Court of Bombay at Goa,
Porvorim Goa. ... RESPONDENTS

Ms. Vaibhavi Kanekar, Advocate for the Applicant.
Mr. G. Nagvenkar, Additional Public Prosecutor for the State.
Mr. Jatin Ramaiya, Advocate for the Respondent No.1.

CORAM:- ASHISH S. CHAVAN, J.

Reserved on : 27th April 2026
Pronounced on : 4th May 2026

IBC Laws | www.ibclaw.in

ORDER :

1. The Applicant herein has approached this Court by way of an application under Section 147 of the Negotiable Instruments Act, *inter alia,* seeking to compound the offence punishable under Section 138 of the Negotiable Instruments Act. The said application is numbered as Criminal Miscellaneous Application No.1225/2025/(F).

2. In essence, the prayer of the Applicant is to compound the sentence imposed on him by learned J.M.F.C., Ponda Goa, which was subsequently confirmed by the Additional Sessions Judge, North Goa, with the consent of the Respondent – Society. The principal submission of the Applicant in support of the Application for Compounding is that the Applicant has paid the entire compensation amount inclusive of the disputed cheque amount to the Respondent No.1 – Society. This factual position is accepted by the Advocate for the Respondent No.1 – Society and the Respondent No.1 has accorded its no objection for offence being compounded.

3. While advancing submissions on behalf of the Applicant, learned Counsel, Ms. Vaibhavi Kanekar has pointed out that the Applicant who with great difficulty has somehow managed to arrange for the amount to be paid to the Respondent No.1 – Society in full and final discharge of the compensation amount is not in a position to muster the costs to be paid to the Goa State Legal Services Authority (GSLSA) as envisaged in the Judgment of ***Sanjabij Tari Vs. Kishore Borcar***[1]. She submits that the Applicant is recently diagnosed as a case of end stage renal disease with several medical complications due to which he has incurred huge expenditure. The Applicant is the sole

[1] 2025 SCC OnLine SC 2069

breadwinner for his family which includes his wife and three minor children. Since the Applicant is not in a position to deposit the compounding costs due to extreme financial distress, he has prayed to relax/exempt/waive off the compounding costs.

4. The Applicant has, therefore, moved the present application in support of his compounding Application with a prayer to waive the compounding costs.

5. Heard the learned Counsel Ms. Vaibhavi Kanekar for the Applicant, Mr. Gaurish Nagvenkar, learned Additional Public Prosecutor for the State and Mr. Jatin Ramaiya, learned Counsel for the Respondent No.1. Perused the records.

6. On behalf of the Applicant it is submitted that the Applicant is suffering from a life threatening disease. He is diagnosed with end stage renal disease on maintenance hemodialysis, hypertension, CKD MBD, with Anemia. He was admitted to the SDM College of Medical Sciences and Hospital Dharwad, Karnataka from 16.02.2026 to 21.02.2026 for renal transplant workup. The Applicant has relied on the medical certificate issued by the aforesaid hospital dated 12.03.2026 which sets out the aforesaid facts and states that currently the patient is on hemodialysis twice weekly and is undergoing further medical evaluation for kidney transplant. In support of the medical condition and treatment of the Applicant, indoor papers and discharge summary is annexed.

7. It is further submitted on behalf of the Applicant that he is the sole breadwinner for his family which consists of his wife, aged 27 years, and three minor children the youngest of whom is nine months

old and the eldest is twelve years old. It is urged on behalf of the Applicant that he has to look after his aged parents also.

8. On behalf of the Applicant it is further submitted that the Applicant had been working for MRF Company at Tisk, Usgao, Ponda. However, since the time he is diagnosed with Kidney failure he is on unpaid leave and he is not being paid any salary. In support of this submission, the Applicant has relied on copies of his salary slip for the months of February and March, 2026.

9. The Counsel for the Applicant further submitted that in the light of the diagnosis of end stage renal disease, the Applicant is required to undergo dialysis 2 to 3 times in a week. Highlighting the plight of the Applicant, it was submitted that since he has exhausted all his savings and in the absence of any regular financial income, he has to take medical treatment at his native place in Karnataka, whereas his wife remains occupied in parenting their three minor children single handedly. The Applicant does not have any savings and has sought financial aid through donation from friends and family. He states that he incurs an expenditure of approximately more than Rs.5,000/- (Rupees Five Thousand Only) after every 2-3 days towards the dialysis treatment exclusive of costs incurred for blood reports, tests, medicines and follow up with doctors. The Applicant has placed reliance on receipts demonstrating the expenses incurred by him. The Applicant further states in his application that end stage renal failure in the absence of kidney transplant is potentially fatal in the absence of timely treatment.

10. The learned Advocate for the Applicant concludes her submissions by stating that with great difficulty the Applicant has paid

the entire compensation amount to the Respondent No.1 – Society. In view of the subsequent medical condition and extreme financial distress endured by the Applicant, he is unable to arrange money for his own medical treatment and he is unable to muster the amount of Rs.14,250/- (Rupees Fourteen Thousand Two Hundred and Fifty Only) towards the compounding costs and in view thereof seeks the indulgence of this Court in waiving/exempting him from paying the aforesaid amount to the Legal Services Authority and prays for appropriate orders to be passed by this Court.

11. The Applicant has relied upon several judgments to buttress her submissions. Firstly, she has invited the attention of this Court to the pronouncement of a three - judge Bench of the Hon'ble Supreme Court in the matter of ***Damodar S. Prabhu Vs. Sayed Babalal H.***[2] which in the year 2010 for the first time set out certain guidelines to impose costs on parties who unduly delay compounding of the offence punishable under Section 138 of the Negotiable Instruments Act. The Applicant submitted that in the aforesaid judgment the Hon'ble Supreme Court taking note of the progression of litigation of cheque bouncing and litigation cases and parties who unduly delay compounding of the offence as a method of last resort, framed guidelines for a graded scheme of imposing costs on such parties as a deterrent for free and easy compounding of offences at any stage, however belated. Explaining the underlying necessity for such scheme, the Applicant submits that the Hon'ble Supreme Court has observed that even though the imposition of costs is a matter of discretion by the courts, the scale of costs has been suggested in the interest of uniformity. The competent Court can, of course, reduce the

[2] (2010) 5 SCC 663

costs with regard to the specific facts and circumstances of the case.

12. The learned Counsel for the Applicant has thereafter relied on the judgment of *Sanjabij Tari (supra)*, which was delivered by the Hon'ble Supreme Court on 25.09.2025, almost 15 years later. In the submission of the learned Counsel for the Applicant the judgment of *Sanjabij Tari (supra)* is an attempt by the Hon'ble Supreme Court to revisit and tweak the guidelines set out by the Hon'ble Apex Court in the case of *Damodar S. Prabhu (supra)*. She submits that in *Sanjabij Tari (supra)*, the Hon'ble Supreme Court taking note of the guidelines framed in *Damodar S. Prabhu (supra)* and observing that a large number of cheque bouncing cases are still pending and interest rates have fallen in the last few years, has recalibrated the guidelines set out in *Damodar S. Prabhu (supra)*. The Counsel for the Applicant submits that the observations in *Sanjabij Tari (supra)* are in that sense a continuation of the guidelines set out earlier in *Damodar S. Prabhu (supra)*. She points out to the penultimate paragraph in *Damodar S. Prabhu (supra)* to argue that the Hon'ble Supreme Court has itself held that the competent Court can reduce the costs in the specific facts and circumstances of the case while recording the reasons in writing for such variance and a harmonious reading of the subsequent judgment in *Sanjabij Tari (supra)* reveals that the subsequent judgment has only recalibrated the guidelines set out in *Damodar S. Prabhu (supra)* and in the absence of any observation or ratio to the contrary, both these judgments have to be read in synthesis and harmoniously. The proposition that emerges therefrom is that the competent Court under special circumstances has the discretion of reducing the costs of compounding, subject to recording reasons in writing for such variance.

13. The aforesaid submissions of the Applicant assume significance in the light of a judgment of the Hon'ble Supreme Court in the matter of ***M/s New Win Export and Anr. Vs. A. Subramaniam***[3] which has observed that the dishonor of cheques is a regulatory offence and the 'compensatory aspect' of remedy shall have priority over the 'punitive aspect' and that the courts should encourage compounding of offences in the NI Act if the parties are willing to do so.

14. The learned Counsel for the Applicant during the course of her submissions has relied upon the judgment of the Hon'ble Apex Court in the matter of **Rajeev Khandelwal Vs. State of Maharashtra**[4], more particularly, paragraphs 4 to 7 therein, to submit that every case must be considered on its own facts and that the 'no objection' of the Complainant in a given case to compound the offence is also a pivotal factor in determining whether the discretion of the competent Court is to be utilized to reduce the compounding costs in a deserving case.

15. The learned Counsel for the Respondent has not contested this application and in fact has submitted that since the cause of action insofar as the Respondent is concerned, has been extinguished in view of the entire compensation amount being paid to it, has urged that this Court may pass appropriate orders.

16. Giving my anxious thought and consideration to the facts and law in the light of the submissions made at the bar, the significance of the judgments of the Hon'ble Supreme Court on the point of the guidelines setting out the scheme of compounding costs to be imposed on the Accused at various levels of the judicial ladder, must be seen.

---

[3] *(2024) 12 SCC 101*
[4] SLP (Crl.) No.14340/2025 decided on 04.11.2025

17. The first such judgment where the Hon'ble Apex Court set out the aforesaid guidelines is the Judgment of *Damodar S. Prabhu (supra)* which was delivered in the year 2010 by a three-judge Bench of the Hon'ble Supreme Court. In the facts of the case before the Hon'ble Supreme Court the learned Attorney General had urged the Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the cheque bouncing cases. In response thereto the Hon'ble Supreme Court had framed the guidelines which were to be followed for compounding of the offences under the Negotiable Instruments Act which are reproduced herein below:

> "*21. 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."*

It was noted by the Hon'ble Apex Court that Section 147 of the negotiable Instruments Act does not carry any guidance of how to proceed with the compounding of offences under the Negotiable Instruments Act. Observing that the competent Court can reduce the costs indicated by the guidelines in the light of specific facts and circumstances of a case, of course, while recording reasons for such variance, the Hon'ble Supreme Court was also quick to caution that bonafide litigants should contest the proceedings to its logical end. The aforesaid observations of the Hon'ble Supreme Court are set out as under:

> *"25. The graded scheme for imposing costs is a means to encourage compounding at an early stage of litigation. In the status quo, valuable time of the court is spent on the trial of these cases and the parties are not liable to pay any court fee since the proceedings are governed by the Code of Criminal Procedure, even though the impact of the offence is largely confined to the private parties. Even though the imposition of costs by the competent court is a matter of discretion, the scale of costs has been suggested in the interest of uniformity. The competent court can of course reduce the costs with regard to the specific facts and circumstances of a case, while recording reasons in writing for such variance. Bona fide litigants should of course contest the proceedings to their logical end."*

18. The subsequent judgment of *Sanjabij Tari (supra)* was delivered by the Hon'ble Supreme Court nearly 15 years later i.e. in the year 2025. In this judgment it was observed by the Hon'ble Apex Court that there was a massive backlog of cheque bouncing cases and the interest rates have fallen in the preceding few years. In view thereof,

the Hon'ble Supreme Court was of the view that it was time to 'revisit and tweak the guidelines'. Accordingly, the guidelines were modified. The observations of the Hon'ble Supreme Court are reproduced 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 per cent. 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 per cent. of the cheque amount by way of costs.*
>
> *(d) Finally, if the cheque amount is tendered before this court, the figure would increase to 10per cent. of the cheque amount."*

19. The Hon'ble Apex Court in the case of *M/s. New Win Export and Anr. (supra)* has observed as under:

> *"6. At this juncture, we would also like to reiterate a few words regarding the principles of compounding of offences in the context of NI Act. It is to be remembered that dishonour of cheques is a regulatory offence which was made an offence only in view of public interest so that the reliability of these instruments can be ensured. A large number of cases involving dishonour of cheques are pending before courts which is a serious concern for our judicial system. Keeping in mind. that the 'compensatory aspect of remedy shall have priority over the 'punitive aspect', courts should encourage compounding of offences under the NI Act if parties are willing to do so. (See: Damodar S. Prabhu v. Sayed Babalal H. (2010) 5 SCC 663. [Para 18], Gimpex Private Limited v. Manoj Goel (2022) 11 SCC 705.2[Para 29), Meters And Instruments Private Limited And Anr. v. Kanchan Mehta (2018) 1 SCC 560.3[Para 18.21)"*

20. From a conjoint and harmonious reading of the judgments of *Damodar S. Prabhu (supra)* and *Sanjabij Tari (supra)* it is evident that the guidelines set out by the judgment of *Damodar S. Prabhu (supra)* have been modified by the judgment of *Sanjabij Tari (supra)* in the wake of the mounting docket of cheque bouncing cases and the fact that interest rates have fallen in the intervening years. The observations in *Damodar Prabhu (supra)* holding that the imposition of costs by the competent Court is a matter of discretion and that the competent Court can reduce the costs in the light of the specific facts and circumstances of the case are not at variance with the subsequent judgment of *Sanjabij Tari (supra).*

21. From the aforesaid discussion it can be gathered that an element of discretion thus, exists in the competent Court in the matter of imposition of costs. This discretion can be used by the competent Court to reduce the costs with regard to specific facts and

circumstances in a particular case. The only caveat set out by the Hon'ble Supreme Court is that reasons must be recorded for such variance in writing.

22. Re-visiting the facts of the present case, in terms of ***Sanjabij Tari (supra)*** the Applicant is required to deposit 7.5% of the cheque amount. However, as seen from the pleadings and the submissions of the Applicant he is unable to arrange for even an amount of Rs.14,250/- (Rupees Fourteen Thousand Two Hundred and Fifty Only) due to his medical condition and lack of any income coupled with the mounting costs of maintaining the family and arranging for his medical expenses. This Court has gone through the annexures which form part of the application and which highlight the plight of the Applicant and bring out his extreme financial distress.

23. In the light of the aforesaid facts, the submissions of the rival parties and in the wake of the guiding principles of the Hon'ble Supreme Court, this Court holds that this is a fit case for exercise of discretion as set out in the case of *Damodar S. Prabhu (supra)*. Considering the quantum of the amount which is not very significant discretion can be exercised in the facts and circumstances of the present case to exempt the Applicant from payment of the compounding costs.

24. In view thereof, I proceed to pass the following order:

The Applicant may be exempted from depositing the amount of Rs.14,250/- (Rupees Fourteen Thousand Two Hundred and Fifty Only) to the Goa State Legal Services Authority.

25. Criminal Miscellaneous Application No.29/2026 is disposed of in the aforesaid terms.

ASHISH S. CHAVAN, J.