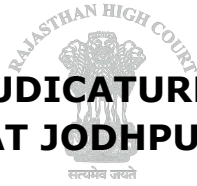


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



S.B. Criminal Miscellaneous (Petition) No. 5859/2026

CNR: RJHC010691712026

URN: CRLMP / 10395U / 2026

Dinesh Puri S/o Narayan Puri, Aged About 40 Years, R/o Juni Basti Mandore, Jodhpur, Raj.

----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Smt Seema, Through His Legal Heri Smt. Seema W/o Surender S/o Late Shri Ramlal R/o Beechlawas Ramawas Khurd Tehsil And District Jodhpur, At Present Juni Basti Mandore, Jodhpur

----Respondents

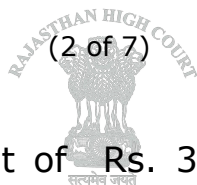
For Petitioner(s)	:	Mr. Sikander Khan
For Respondent(s)	:	Mr. Vikram Rajpurohit, PP Ms. Hena Aman Siddiqui, for complainant

HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU

Order

20/07/2026

1. The present criminal miscellaneous petition has been filed by the petitioner under section 528 BNSS against the judgment dated 30.06.2023 passed by the learned Special Magistrate (NI Act Cases), No.5, Jodhpur Metropolitan, in Criminal Case No.385/2016 and judgment dated 10.10.2024 passed by Learned Additional Sessions Judge No.4, Jodhpur Metropolitan in Criminal appeal No.301/2023 by which the petitioner has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to two years of simple imprisonment and also pay compensation



payment of cheque amount of Rs. 3,00,000/- and in default of payment of the fine to further undergo simple imprisonment of three months.

2. The petitioner has also challenged the judgment dated dated 10.10.2024, passed by Learned Additional Sessions Judge No.4, Jodhpur Metropolitan in Criminal appeal No.301/2023, whereby, the appeal assailing the above-mentioned order was dismissed.

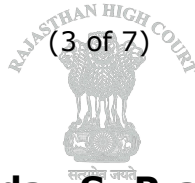
3. Learned counsel for petitioner submits that both the parties have settled the matter and therefore, in view of the provision of Section 147 of the Negotiable Instruments Act, 1881, the present miscellaneous petition may be allowed. He submits that a settlement deed was executed on 09.07.2026 by both the parties in the presence of witnesses, fortifying the fact that the respondent No.2 has received the entire outstanding amount and has no objection if the revision petition is allowed on the basis of the said compromise.

4. On specific query, the learned counsel for the respondent No.2 stated that in view of the fact that the parties have settled the issue and the amount has been paid, he has no objection if the present miscellaneous petition is allowed.

5. Learned Public Prosecutor has opposed the present petition, however, he is not in a position to refute the factum of compromise arrived at between the parties.

6. Considered the spirit of the provisions of Section 147 of the Negotiable Instruments Act, 1881, which provides 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"



7. In the case of **Damodar S. Prabhu vs. Sayed Babalal H** reported in **2010 (2) SCC (Cri) 1328**, the Hon'ble Apex Court had formulated the guidelines for compounding the offence under Section 138 N.I. Act wherein in para 21, it was pleased to observe as under:-

"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 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.

8. In the case of **M/s. Meters and Instruments Private Limited and Anr. vs. Kanchan Mehta** reported in **2018 (1) SCC 560**, the Hon'ble Apex Court in para 18, was pleased to observe as under:-

i) Offence under Section 138 of the Act is primarily a civil wrong. Burden of proof is on accused in view presumption under Section 139 but the standard of such proof is "preponderance of probabilities". The same has to be normally tried summarily as per provisions of summary trial under the Cr.P.C. but with such variation as may be appropriate to proceedings under Chapter XVII of the Act. Thus read, principle of Section 258 Cr.P.C. will apply and the Court can close the proceedings and discharge the accused on satisfaction that the cheque amount with assessed costs and interest is paid and if there is no reason to proceed with the punitive aspect.

(ii) The object of the provision being primarily compensatory, punitive element being mainly with the object of enforcing the compensatory element, compounding at the initial stage has to be encouraged but is not debarred at later stage subject to appropriate compensation as may be found acceptable to the parties or the Court.

(iii) Though compounding requires consent of both parties, even in absence of such consent, the Court, in the interests of justice, on being satisfied that the complainant has been duly compensated, can in its discretion close the proceedings and discharge the accused.

(iv) Procedure for trial of cases under Chapter XVII of the Act has normally to be summary. The discretion of the Magistrate under second proviso to Section 143, to hold that it was undesirable to try the case summarily as sentence of more than one year may have to be passed, is to be exercised after considering the further fact that apart from the sentence of imprisonment, the Court has jurisdiction under Section 357(3) Cr.P.C. to award suitable compensation with default sentence under Section 64 IPC and with further powers of recovery under Section 431 Cr.P.C. With this approach, prison sentence of more than one year may not be required in all cases.

(v) Since evidence of the complaint can be given on affidavit, subject to the Court summoning the person giving affidavit and examining him and the bank's slip being prima facie evidence of the dishonor of cheque, it is unnecessary for the Magistrate to record any further preliminary evidence. Such affidavit evidence can be read as evidence at all stages of trial or other proceedings. The manner of examination of the person giving affidavit can be as per Section 264 Cr.P.C. The scheme is to follow summary procedure except where exercise of power under second proviso to Section 143 becomes necessary, where sentence of one year may have to be awarded and compensation under Section 357(3) is considered inadequate, having regard to the amount of the cheque, the financial capacity and the conduct of the accused or any other circumstances."

9. The Hon'ble Apex Court in the case of **Vinay Devanna Nayak vs. Ryot Seva Sahkari Bank Limited** reported at **AIR 2008 SC 716** was pleased to observe as under:-

"18. Taking into consideration even the said provision (Section 147) and the primary object underlying Section 138, in our judgment, there is no reason to refuse compromise between the parties. We, therefore, dispose of the appeal on the basis of the settlement arrived at between the appellant and the respondent.

19. For the foregoing reasons the appeal deserves to be allowed and is accordingly allowed by holding that since the matter has been compromised between the parties and the amount of Rs.45,000/- has been paid by the appellant towards full and final settlement to the respondent-bank towards its dues, the appellant is entitled to acquittal. The order of conviction and sentence recorded by all courts is set aside and he is acquitted of the charge levelled against him."

10. Recently, the Apex Court considering the judgment of **Damodar S. Prabhu (supra)** in the case of **Sanjabij Tari v. Kishore S. Borcar & Anr.** reported in **2025 INSC 1158** had issued the guidelines for compounding the offence under Section 138 N.I. Act wherein in para 38, it was pleased to observe 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."

11. Considering the statements made by both the learned counsel and after perusal of settlement deed dated 09.07.2026 as also, taking guidance from the judgments referred to supra, the present miscellaneous petition is allowed in view of the compromise entered between parties.

12. However, since the compromise has been arrived at after rejection of the appeal preferred by the petitioner, a cost of 7.5% of the cheque amount deserves to be imposed upon the petitioner in light of the decision rendered by the Hon'ble Apex Court in the case of **Sanjabij Tari (supra)**.

13. Accordingly, the conviction and sentence of imprisonment awarded to the petitioner for the offence under Section 138 of the



Negotiable Instruments Act vide judgment dated 30.06.2023 passed by the learned Special Magistrate (NI Act Cases), No.5, Jodhpur Metropolitan, in Criminal Case No.385/2016 and the judgment dated 10.10.2024 passed by the learned Additional Sessions Judge No.4, Jodhpur Metropolitan, in Criminal Appeal No.301/2023 are hereby quashed and set aside on the basis of the aforesaid compromise, subject to deposit of costs equivalent to 7.5% of the cheque amount by the petitioner. The said costs shall be deposited by the petitioner before the Rajasthan State Legal Services Authority, Jodhpur within a period of one month from the receipt of the copy of this order. In case the costs are not deposited before the Rajasthan State Legal Services Authority, Jodhpur within the stipulated period, the present criminal miscellaneous petition shall stand revived and be listed before this Court for passing appropriate orders.

14. The petitioner is accordingly acquitted from the offence punishable under Section 138 Negotiable Instrument Act, 1881.

15. All the pending applications are hereby disposed of accordingly.

16. Copy of this order be sent to the Rajasthan State Legal Services Authority, Jodhpur.

(BALJINDER SINGH SANDHU),J