



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

S.B. Criminal Revision Petition No. 54/2021

Pawan Kumar S/o Shri Vijay Kumar, Aged About 29 Years, By
Caste Sharma, R/o House Of Rampal Sandad, Makrana, Tehsil
Makrana, District Nagaur.

-----Petitioner

Versus

1. State, Through P.p.
2. Bhanwar Singh S/o Shri Bhagirath Sigh, Since Expired
Through His Legal Heirs
3. Mahaveer S/o Late Bhanwar Singh, By Caste Rajput, R/o Vijay
Palace, Makrana, Tehsil Makrana, District Nagaur.
4. Reetu Kanwar D/o Late Bhanwar Singh, By Caste Rajput, R/o
Vijay Palace, Makrana, Tehsil Makrana, District Nagaur.

-----Respondents

For Petitioner(s)	:	Mr Bhawani Singh Mertia
For Respondent(s)	:	Mr Gaurav Singh, Public Prosecutor Mr G.S. Rathore for complainants

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

19/01/2021

In wake of onslaught of COVID-19, abundant caution is being
taken while hearing the matters in Court.

It is stated at the Bar that a compromise has been arrived at
between the parties after the judgment dated 25.06.2019 passed
by the appellate court whereby the judgment dated 05.09.2016
passed by the trial has been affirmed. It is borne out that the
complainant is not inclined to proceed further in the matter.
Learned counsel for the parties have placed reliance on a decision
of Supreme Court in case of **Damodar S. Prabhu vs Sayed
Babalal H [2010(5) SCC 66]**.



Having considered the facts and circumstances of the case, since the parties have settled the dispute and complainant respondent No.2 Bhanwar Singh had accepted the sum towards full and final settlement of the cheque, on the satisfaction of the complainant and in the light of provisions of Section 147 of NI Act and in view of law laid down by the Hon'ble Apex Court in the case of Damodar S. Prabhu Vs. Sayed Babalal H. (supra), the sentence awarded to the petitioner for offence under Section 138 NI Act is liable to be set aside. However, since the compromise has been arrived at after rejection of the appeal preferred by the petitioner, a cost of 15% of the cheque amount deserves to be imposed upon the petitioner in the light of the decision rendered by the Hon'ble Apex court in the case of Damodar S. Prabhu (Supra).

Accordingly, the petitioner is directed to deposit 15% of the cheque amount with the State Legal Services Authority, Jodhpur within a period of two weeks from today.

The conviction and sentence of imprisonment awarded to the petitioner for offence under Section 138 Negotiable Instruments Act, vide judgment dated 05.09.2016 passed by the ACJM Makrana in case No.171/2015 as affirmed by judgment dated 25.06.2019 passed by ADJ No.1, Parbatsar (Nagaur) in Appeal No.37/2016, is hereby set aside on the basis of the aforesaid compromise.

The revision petition is disposed of accordingly. Stay petition also stands disposed of.

(DR.PUSHPENDRA SINGH BHATI),J.

233-MMA/-