

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. Revision No.176 of 2026  
Date of Decision: 27.05.2026**

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**M/s Ganesh Jewelers**

**.....Petitioner**

**Versus**

**M/s Shivam Jewelers**

**.....Respondent**

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*Coram*

*Hon'ble Mr. Justice Sandeep Sharma, Judge.*

*Whether approved for reporting?*

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**For the Petitioner:** Mr. Servedaman Rathore, Advocate.

**For the Respondent:** Mr. Piyush Dhanotia, Advocate.

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**Sandeep Sharma, J.** *(Oral)*

Instant criminal revision petition filed under Section 438 read with Section 442 of the BNSS, lays challenge to judgment dated 18.04.2024, passed by the learned Sessions Judge, Una, District Una, Himachal Pradesh, in Criminal Appeal No.175/2023, titled *M/s Ganesh Jewelers Vs. M/s Shivam Jewelers*, affirming judgment of conviction and order of sentence dated 13.09.2023, passed by the learned Additional Chief Judicial Magistrate, Court No.1, Una, District Una, Himachal Pradesh, whereby the learned trial Court while holding the petitioner-accused **(hereinafter, 'accused')** guilty of having committed offence punishable under Section 138 of the Negotiable Instruments Act **(in short the 'Act')**, convicted and sentenced him to undergo simple imprisonment for a period of one year and pay compensation to the tune of Rs.1,72,000/- to the complainant.

2. Precisely, the facts of the case, as emerge from the record are that respondent-complainant (**hereinafter, 'complainant'**) instituted a complaint under Section 138 of the Act, in the Court of learned Additional Chief Judicial Magistrate, Court No.1, Una, District Una, Himachal Pradesh, alleging therein that accused with a view to discharge his liability issued Cheque for a sum of Rs.1,02,475/-, but fact remains that aforesaid Cheque on its presentation, was dishonoured. Since petitioner-accused failed to make the payment good within the time stipulated in the legal notice, respondent/complainant was compelled to initiate proceedings before the competent Court of law under Section 138 of the Act.

3. Learned trial Court on the basis of material adduced on record by the respective parties, vide judgment/order dated 13.09.2023, held the petitioner-accused guilty of having committed offence under Section 138 of the Act and accordingly, convicted and sentenced him, as per the description given hereinabove.

4. Being aggrieved and dissatisfied with the aforesaid judgment of conviction recorded by the Court below, accused preferred an appeal in the Court of learned Sessions Judge, Una, District Una, Himachal Pradesh, which also came to be dismissed vide judgment dated 18.04.2024, as a consequence of which, judgment of conviction recorded by the learned trial Court came to be upheld. In the aforesaid background, present petitioner-

accused has approached this Court by way of instant proceedings, seeking therein his acquittal after setting aside the judgments of conviction recorded by the Courts below.

5. Before case at hand could be heard and decided on its own merits, parties have entered into compromise, whereby petitioner/accused has agreed to pay entire amount of compensation to the respondent/complainant.

6. Counsel representing the petitioner, on instructions, states that entire amount of compensation is lying deposited with the Registry of this Court and the same has been agreed to be released in favour of respondent/complainant. He states that since petitioner/accused has agreed to pay entire amount of compensation awarded by learned trial Court, this Court, while exercising power under Section 147 of the Act may proceed to compound the offence.

7. Mr. Piyush Dhanotia, Advocate, while putting in appearance on behalf of respondent-complainant, states that he has instructions to depose on behalf of respondent-complainant. He states that complainant has compromised the matter with the petitioner-accused and as per compromise, entire compensation amount has been deposited with the Registry of this Court and in case same is ordered to be released in favour of the complainant, complainant shall have no objection in quashing the

judgments of conviction passed by the learned Courts below and the petitioner is acquitted of the charge framed against him. However, he states that some amount on account of litigation charges may be awarded in favour of complainant, because he was unnecessarily dragged into litigation for realization of his own money. His statement is taken on record.

8. Since parties have resolved to settle their dispute amicably *inter se* them, as has been taken note hereinabove, coupled with the fact that respondent/complainant has no objection in compounding the offence in the event of his being released the amount lying deposited with the Registry of this Court, this Court sees no impediment in accepting the prayer made on behalf of the petitioner for compounding of offence, while exercising power under Section 147 of the Act as well as in terms of guidelines issued by the Hon'ble Apex Court in ***Damodar S. Prabhu V. Sayed Babalal H. (2010) 5 SCC 663***, wherein it has been categorically held that Court, while exercising power under Section 147 of the Act, can proceed to compound the offence even after recording of conviction by the Courts below.

9. Consequently, in view of the above, present matter is ordered to be compounded and impugned judgments of conviction and sentence dated 18.04.2024 and 13.09.2023, passed by the learned Appellate Court and learned trial Court are quashed and set aside and the petitioner-accused is

acquitted of the charge framed against him under Section 138 of the Act. Interim order, if any, is vacated. Bail bonds, if any, are discharged. Entire amount of compensation lying deposited with the Registry of this Court is ordered to be released in favour of the respondent-complainant by remitting the same in his bank account, detail whereof shall be furnished by his counsel within one week.

10. Since respondent/complainant was compelled to engage in unwarranted litigation with the petitioner/accused for realization of his own money, petitioner-accused is directed to pay a sum of Rs.10,000/- as litigation charges in favour of respondent/complainant and further to deposit sum of Rs.5000/- with the H.P. State Legal Service Authority as compounding fee, within a period of six weeks, failing which petitioner/accused shall render himself for penal consequences as well as Contempt of Court.

The present petition is disposed in the above terms, so also the pending miscellaneous application(s), if any.

**(Sandeep Sharma),  
Judge**

**May 27, 2026**  
*(Rajeev Raturi)*