

In the Supreme Court of Bangladesh  
High Court Division  
(Criminal Appellate Jurisdiction)

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL APPEAL NO.14299 OF 2019

Md. Rabiul Islam..... Convict-appellant

-Versus-

The State and another ..... Respondents

Mr. Md. Mahfuj Ul Alam, Advocate

.....For the convict-appellant

Mr. Md. Saiful Islam, Advocate

.....For the respondent No. 2

Mrs. Tashrifa Sultana Jali, AAG with

Mr. Md. Emdadul Hanif, AAG and

Mr. Hemayet Uddin, AAG

.....For the state

Heard on: 21.01.2026

Judgment on: **The 22<sup>nd</sup> of January, 2026**

**ABU TAHER MD. SAIFUR RAHMAN, J.**

This appeal is directed against the Judgment and Order of conviction and sentence dated 29.10.2019 passed by the learned Sessions Judge, Nilphamari in Sessions Case No. 635 of 2018, arising out of C.R. Case No. 111 of 2018 convicting the appellant under section 138 of the Negotiable Instrument Act,

1881 and sentencing him there under to suffer imprisonment for 1 (one) year and to pay a fine of **Tk. 3,50,000/-** (Taka Three lac and fifty thousand).

For the purpose of disposal of the appeal, the relevant facts may briefly be stated as follows:

That the respondent No. 2, as complainant, instituted C.R. Case No. 111 of 2018 against the accused-appellant under section 138 of the Negotiable Instruments Act, 1881, alleging inter alia, that the complainant and the accused were previously acquainted and engaged in business. Owing to such acquaintance and cordial relationship, the accused-appellant obtained a loan of **Tk. 3,50,000/-** from the complainant for business purposes.

In discharge of the aforesaid liability, the accused-appellant issued a cheque dated 03.07.2018 drawn on his account maintained with Janata Bank Limited in favour of the complainant. Upon presentation of the said cheque for encashment, the same was dishonoured due to insufficiency of funds. Thereafter, the complainant duly served a statutory legal notice upon the accused demanding payment of the cheque amount; however, the accused failed to make payment within the prescribed statutory period. Consequently, the complainant was constrained to institute the instant case under section 138 of the Negotiable Instruments Act, 1881.

In discharge of the said liability, the accused-appellant issued a cheque dated 03.07.2018 drawn on his account maintained with Janata Bank Ltd. in favour of the complainant. Upon presentation of the said cheque for encashment, it was dishonored due to insufficiency of funds. Accordingly, the complainant served a legal notice upon the accused demanding the money. The accused did not take any initiative to pay the money within the statutory period. Consequently, the complainant filed the instant case under section 138 of the Negotiable Instruments Act, 1881.

It is further stated that the accused-appellant appeared before the trial court and was enlarged on bail. Upon conclusion of the trial, the court below, by its judgment and order dated 29.10.2019, convicted and sentenced the accused-appellant. Being aggrieved by the said judgment and order, the accused-appellant has preferred the present appeal before this Court.

Mr. Md. Mahfuj Ul Alam, the learned Advocate, appeared on behalf of the convict-appellant.

Mr. Md. Saiful Islam, the learned Advocate appeared on behalf of the respondent No. 2 (complainant) and

Mrs. Tashrifa Sultana Jali, the learned Assistant Attorney General appeared on behalf of the State.

During hearing, learned Advocates for both parties jointly submitted that during the pendency of the appeal, the parties have amicably settled the dispute out of Court and that the appellant has paid the remaining unpaid dues to the complainant-respondent No. 2.

In support of such contention, the learned Advocates for both sides jointly filed an application for compromise, annexing therewith an affidavit of compromise dated 29.09.2021, wherein it has been stated that the complainant has received the remaining unpaid amount from the convict-appellant and that the matter has been fully and finally settled.

At the time of hearing, the complainant-respondent No. 2 was personally present before this Court and, upon query, candidly admitted that he has received the entire cheque amount, has no grievance against the accused-appellant, and that the dispute has been amicably settled out of Court.

We have considered the submissions of the learned Advocates, the affidavit filed by the respondent No. 2, and also examined the provisions of law. The offence under Section 138 of the Negotiable Instruments Act, 1881 is compoundable and the parties are legally entitled to compromise the matter at any stage of the proceeding, even after conviction.

Since the dispute has been amicably settled between the parties and the complainant has received the entire cheque amount, continuation of the criminal proceeding would serve no

useful purpose and would amount to abuse of the process of Court.

In view of the compromise arrived at between the parties, this appeal is dismissed.

As per terms of the agreement, the complainant–respondent No. 2 is hereby permitted to withdraw a sum of **Tk. 1,75,000/-** from the court in Sessions Case No. 635 of 2018, arising out of C.R. Case No. 111 of 2018, which was deposited by the accused-appellant towards part satisfaction of the cheque amount.

Accordingly, the judgment and order of conviction and sentence dated 29.10.2019 passed by the learned Sessions Judge, Nilphamari in Sessions Case No. 635 of 2018, arising out of C.R. Case No. 111 of 2018 convicting the accused appellant under section 138 of the Negotiable Instrument Act, 1881 and sentencing him there under to suffer imprisonment for 1 (one) year and to pay a fine of **Tk. 3,50,000/-** (Taka Three lac and fifty thousand) are hereby set aside and the convict-appellant is acquitted of the charge.

The bail bond stands discharged.

Send down the Lower Court Record (LCR).

Communicate this judgment and order to the concerned Court below at once.