

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

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL APPEAL NO.1684 OF 2024

Md. Anam-----Convict-appellant

-Versus-

The State and another

...Complainant Respondents

Mr. Md. Masum Billah, Advocate

.... For the convict-appellant

Mr. Emadul Haque, Advocate

.....For the complainant opposite party No. 2

Mrs. Tashrifa Sultana Jali, AAG with

Mr. Md. Emdadul Hanif, AAG and

Mr. Hemayet Uddin, AAG

.....For the state

Heard on: 04.03.2026

Judgment on: The 9<sup>th</sup> of March, 2026

ABU TAHER MD. SAIFUR RAHMAN, J.

This appeal is directed against the Judgment and Order of conviction and sentence dated 05.04.2018 passed by the learned Additional Sessions Judge, 4th Court, Chattogram in Sessions

Case No. 1850 of 2017, arising out of C.R. Case No. 223 of 2016 (Chandanaish), whereby the accused-appellant was convicted under section 138 of the Negotiable Instruments Act, 1881 and sentenced to suffer simple imprisonment for 06 (six) months and to pay a fine of Tk. 7,00,000/- (Taka seven lakh), in default of payment of which he shall suffer simple imprisonment for a further period of 01 (one) month.

For the purpose of disposal of the appeal, the relevant facts, in brief, are stated as follows:

That the respondent No. 2, as complainant, filed C.R. Case No. 223 of 2016 (Chandanaish) under section 138 of the Negotiable Instruments Act, 1881 alleging, inter alia, that the complainant and the accused-appellant had a good business relationship and, in the course of their business transactions, the accused became liable to pay a sum of money to the complainant. In discharge of the said liability, the accused issued cheque No. 4537714 dated 21.06.2016 drawn on Export Import Bank of Bangladesh Limited for an amount of Tk. 7,00,000/- (Taka seven lakh) in favour of the complainant. The complainant deposited the said cheque in his bank for encashment, but the cheque was dishonoured on 30.06.2016 with the remark “insufficient funds.” The complainant informed the accused of such dishonour, but the accused failed to pay the cheque amount despite repeated requests and assurances. Thereafter, upon compliance with the provisions of the

Negotiable Instruments Act, 1881, the complainant sent a legal notice on 25.07.2016 demanding payment of Tk. 7,00,000/- (Taka seven lakh) within 30 (thirty) days from the date of receipt of the notice. The notice was received by the accused on 28.07.2016, but he failed to make payment within the stipulated time. Having no other alternative, the complainant was constrained to file the instant case against the accused-appellant under section 138 of the Negotiable Instruments Act, 1881 before the learned Court.

Mr. Md. Masum Billah, the learned Advocate appeared on behalf of the convict-appellant.

Mr. Emadul Haque, the learned Advocate appeared on behalf of the complainant respondent No. 2.

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

During the hearing, the learned Advocates for both parties jointly submitted that, during the pendency of the appeal, the dispute was amicably settled out of Court and the appellant paid the entire cheque amount to the complainant-respondent No. 2 on 14.11.2019, as evidenced by Annexure-‘C’ to the bail application.

In support of this submission, the learned Advocates for both sides jointly filed a compromise petition stating that the

complainant had received the entire cheque amount from the convict-appellant in cash on 14.11.2019 and issued a money receipt (Annexure- 'C'), thereby confirming 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 compromise application jointly filed by both parties 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.

In view of the provisions of subsections (5) and (6) of section 345 of the Code of Criminal Procedure, the compromise arrived at between the parties is hereby accepted. Accordingly, the accused-appellant is acquitted of the charge and the appeal stands disposed of.

The judgment and order of conviction and sentence dated 05.04.2018 passed by the learned Additional Sessions Judge, 4th Court, Chattogram in Sessions Case No. 1850 of 2017,

arising out of C.R. Case No. 223 of 2016 (Chandanaish), convicting the accused-appellant under section 138 of the Negotiable Instruments Act, 1881 is hereby set aside, and the convict-appellant is acquitted of the charge.

The convict-appellant is permitted to withdraw a sum of **Tk. 3,50,000/-** (Taka three lakh and fifty thousand) lying deposited before the Court in connection with the said Sessions Case, which had been deposited by the accused-appellant towards part satisfaction of the cheque amount.

The bail bond stands discharged.

Send down the Lower Court Record (LCR).

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

