

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

PRESENT:

MR. JUSTICE ABU TAHER MD. SAIFUR RAHMAN

CRIMINAL APPEAL NO. 4107 OF 2023

A.K.M. Nazmul Hossian.....Convict-appellant

-Versus-

The State and anotherRespondents

Mr. Md. Mutasim Billah Masum, Advocate

.....For the convict-appellant

Mrs. Hosneara Begum, Advocate

.....For the complainant respondent No. 2

Mrs. Tashrifa Sultana Jali, AAG with

Mr. Md. Emdadul Hanif, AAG and

Mr. Hemayet Uddin, AAG

.....For the state

Heard on: 13.01.2026 and 02.02.2026

Judgment on: **The 3rd of February, 2026**

ABU TAHER MD. SAIFUR RAHMAN, J.

This appeal is directed against the Judgment and Order of conviction and sentence dated 03.07.2018 passed by the learned Additional Metropolitan Sessions Judge, 3rd Court, Dhaka in Sessions Case No. 19662 of 2017, arising out of

C.R. Case No. 93 of 2014 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. 86,16,003.00/-** (Taka Eighty-Six Lac, Sixteen thousand and Three).

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

That the accused–appellant, A.K.M. Nazmul Hossain, availed a CCloan facility in the name of his business concern, *M/s Allied Jute Mills Ltd.* Upon his failure to repay the loan, the complainant bank, on his application, granted 100% waiver of ordinary and penal interest, allowing repayment of **Tk. 5,16,96,018/-** in six equal installments, with a stipulation that the facility would stand cancelled upon failure of two consecutive installments. Despite repeated demands and notices, the accused issued Cheque No. A-1597413, dated 20.06.2013, drawn on Trust Bank Ltd. Gulshan Corporate Branch, for adjustment of the waived installment amount. The cheque was deposited by the complainant at Janata Bank Ltd. Ramna Corporate Branch, but was dishonored on three occasions- on 13.11.2013, 05.12.2013 and 09.12.2013—due to insufficiency of funds. The complainant duly informed the accused and, through learned counsel, served a legal notice dated 10.12.2013 under Section 138(1)(b) of the Negotiable Instruments Act, 1881 by registered post with A/D,

demanding payment within the statutory period. The notice was returned on 30.12.2013 with the endorsement “not accepted by office staff,” amounting to valid service in law. The accused failed to make payment within **30 (thirty)** days, despite knowledge of the notice. Accordingly, it is evident that the accused knowingly issued the cheque without maintaining sufficient funds in the account and intentionally failed to honour the same. As a result, the cause of action under Section 138(c) of the Act arose on 29.01.2014, leading to the institution of the present case against the accused-appellant.

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

Mrs. Hosneara Begum, 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 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, 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 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.

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.

The complainant–respondent No. 2, Janata Bank Ltd. is hereby permitted to withdraw a sum of **Tk. 43,08001.5** /- from the Court in Sessions Case No. 19662 Of 2017, arising out of C.R. Case No. 93 of 2014, which was deposited by the accused-appellant towards part satisfaction of the cheque amount.

Accordingly, the judgment and order of conviction and sentence dated 03.07.2018 passed by the learned Additional Metropolitan Sessions Judge, 3rd Court, Dhaka in Sessions Case No. 19662 of 2017, arising out of C.R. Case No. 93 of 2014 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. 86,16,003/-** (Taka Eighty-Six Lac, Sixteen thousand and Three) 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.