

**Present**  
**Mr. Justice Sheikh Abdul Awal**  
**Criminal Appeal No. 469 of 2016**

Md. Monowar Hossain  
.....Convict-appellant.

-Versus-

The State and another  
.....Respondents.

Mr. Md. Rasheduzzaman Bosunia,  
Advocate  
.....For the appellant.

Mr. Md. Zishan Mahmud, Advocate.  
.... For the complainant-Respondent

Ms. Shahida Khatoon, D.A.G with  
Ms. Sabina Perven, A.A.G with  
Ms. Kohenoor Akter, A.A.G  
.... For the Sate.

**Heard on 12.06.2024 and**

**Judgment on 30.06.2024**

**Sheikh Abdul Awal, J:**

This Appeal at the instance of convict appellant, Md. Monowar Hossain is directed against the judgment and order of conviction and sentence dated 16.11.2015 passed by the learned Sessions Judge, Nilphamari in Sessions Case No. 236 of 2013 arising out of C.R. Case No. 88 of 2013 convicting the appellant under section 138 of the Negotiable Instrument Act, 1881 and sentencing him thereunder to suffer imprisonment for a

period of 1 (one) year and to pay a fine of Tk. 70,000/- (seventy thousand).

Mr. Md. Rasheduzzaman Bosunia, the learned Advocate appearing for the convict-appellant submits that during the pendency of the appeal, the convict-petitioner has already paid entire cheque's amount of Taka 70,000/- to complainant-respondent No.2. He further submits that since the convict-petitioner has already paid entire cheque's amount, the appeal may kindly be allowed upon recording compromise. Finally, the learned Advocate submits that the convict-appellant deposited 50% cheque's amount of Taka 35,000/- in the Trial Court for the purpose of preferring this Criminal Appeal and accordingly he prays since the appellant has already paid entire cheque's money pending hearing of this appeal, a direction may kindly be given to the trial Court to withdraw the said money by appellant, who deposited the same in trial Court for the purpose of preferring this appeal

Mr. Md. Zishan Mahmud, the learned Advocate appearing for the complainant-Opposite respondent No.2, on the other hand, after placing an application dated 12.06.2024 submits that during the pendency of the appeal, the convict-appellant has paid entire cheque's amount to the complainant-opposite party No.2

(Annexure-I). He further submits that since the convict-petitioner has already paid the entire cheque's amount to complainant respondent No. 2, the appeal may kindly be allowed upon recording compromise and the complainant-respondent has no objection to withdraw the deposited 50% cheque's amount by the appellant, who deposited the same in the trial Court for the purpose of preferring this Criminal Appeal.

Having heard the learned Advocate for both the sides and perused the application dated 12.06.2024 filed by the learned Advocate for the complainant-respondent No.2 and other papers.

Having regard to the submission made by the learned Advocates for both the parties, I am of the view that there is no reason not to accept the compromise entered into between the parties. The Negotiable Instruments Act, 1881 is silent about compromise of offences under the Act but the Act does not make any provision therein prohibiting such compromise. Since N.I. Act proceeding arises out of monetary transaction and the proceeding is a quasi civil and quasi criminal in nature, maximum sentence under the law is one year, I am of the view that the dispute between the parties under Negotiable Instruments Act proceeding has been resolved out of Court by the parties on compromise and

the same should be allowed by the Court at any stage of the proceedings even at the appellate or revisional stage.

In the Supreme Court of India, it has been consistently decided that the offence under Section 138 of the Negotiable Instruments Act being compoundable.

For the reasons stated above, I allow the prayer made on behalf of the contesting parties with the direction that compromise done by the parties is hereby accepted and dispose of the appeal on the basis of the said compromise.

Accordingly, the appeal is allowed by holding that since the matter has been compromised between the parties and the amount in terms of the said compromise has been paid, the appellant is entitled to acquittal.

The order of conviction and sentence passed by the trial Court below is set-aside and the appellant is acquitted of the charge under Section 138 of the Act. Convict appellant, Md. Monowar Hossain is discharged from his bail bond and the trial Court is directed to allow the convict-appellant to withdraw half of the cheque's amount deposited in the Trial Court by the convict-appellant for the purpose of preferring this Criminal Appeal.

The appeal stands disposed of in the above terms.

Send down the lower Court records at once.