IN THE SUPREMECOURT OF BANGLADESH
HIGH COURT DIVISION
(CRIMINAL REVISIONAL JURISDICTION)

Present:
Mr. Justice Md. Bashir Ullah

Criminal Revision No. 2952 of 2023

In the matter of:
An application under section 439 read with section 435 of the Code of Criminal Procedure, 1898.

And

In the matter of:

Babu Prodeep Kanti Das

... Convict-Appellant-Petitioner

-Versus-

The State and another

... Opposite parties

Mr. M. M. A. Siddique, Advocate
... For the Petitioner

Mr. Md. Rezaul Karim, Advocate
… For the Opposite Party No.2

Mr. Md. Mizanur Rahman, D.A.G and
Mr. Md. Sirajul Karim, A.A.G
… For the State

Heard on: 25.08.2026
Judgment on: 06.09.2026

This Rule was issued at the instance of the petitioner calling upon the opposite parties to show cause as to why the judgment and order dated 29.10.2019 passed by the learned Additional Sessions Judge, 5th Court, Chattogram in Criminal

Appeal No. 901 of 2017 affirming the judgment and order of conviction and sentence dated 27.09.2017 passed by the learned joint Sessions Judge, Patia, Chattogram in Sessions Case No. 1155 of 2017, arising out of C.R. Case No. 165 of 2016 (Patia) convicting the petitioner under section 138 of the Negotiable Instruments Act, 1881 and sentencing him to suffer simple imprisonment for 04(four) months and also to pay a fine of Tk. 1,14,000/- (one lac fourteen thousand) should not be set aside and/or such other or further order or orders be passed as to this court may seem fit and proper.

The facts, relevant for disposal of the Rule, in short, are that, the accused had obtained a loan of Taka 50,000/- from the complainant Bank under the trade name "M/S Prodeep Store". Owing to default in regular installments, the said liability escalated to Taka 57,000/-. In discharge of the said liability, the accused issued a cheque being No. 04AB-2837808 dated 10.04.2016, drawn on Agrani Bank Limited, Patia Branch, Chattogram in favour of the complainant-bank. The complainant presented the cheque to the concerned bank on 10.04.2016 for encashment but the same was dishonoured with the endorsement "insufficiency of funds". Thereafter, the complainant served a statutory legal notice upon the accused on 21.04.2016, demanding payment of the cheque amount. The petitioner duly received the legal notice on 02.05.2016 but failed to make payment. Consequently, the complainant instituted C.R. Case No. 165 of 2016 (Patia) before the learned Judicial Magistrate, Cognizance Court, Patia, Chattogram on 15.06.2016. The cognizance Court took cognizance of the offence and transmitted the case to the Court of Sessions Judge, Chattogram. Subsequently, the learned Sessions Judge, Chattogram transferred the case to the learned Joint Sessions Judge, Patia Court, Chattogram which was registered as Sessions Case No. 1155 of 2017. Charge was framed against the accused on 05.07.2017 under Section 138 of the Negotiable Instruments Act, 1881.

In course of trial, the prosecution examined 01(one) witness and produced relevant documentary evidence to prove the indictment. The accused could not be examined under Section 342 of the Code of Criminal Procedure due to his abscondence.

Upon hearing the parties, the learned Joint Sessions Judge, Patia Court, Chattogram convicted the petitioner under

Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to suffer simple imprisonment for 04(four) months and also to pay a fine of Tk. 1,14,000/- (one lac fourteen thousand) by judgment and order dated 27.09.2017.

Challenging the conviction and sentence, the accused filed Criminal Appeal No. 901 of 2017 before the learned Sessions Judge, Chattogram depositing Taka 28,500/-. On transfer the learned Additional Sessions Judge, 5th Court, Chattogram dismissed the appeal by judgment and order dated 29.10.2019 affirming the judgment and order of conviction and sentence.

Being aggrieved by and dissatisfied with judgment and order dated 29.10.2019, the petitioner preferred the instant revisional application before this Court and obtained Rule and bail.

Mr. M.M.A. Siddique, the learned Advocate on behalf the accused-petitioner filed a joint application for disposal of the instant criminal revision on the basis of compromise. He submits that the accused-petitioner has paid the entire cheque amount and dues to the complainant-bank directly.

Consequently, he contends that the petitioner is entitled to a refund of Taka 28,500/- which was deposited before filing the appeal.

He further submits that the sentence of fine Taka 1,14,000/- is excessive and prays for reducing the amount of fine from Taka 1,14,000/- to Taka 57,000/- and set aside the substantive sentence of imprisonment.

Per contra, Mr. Md. Rezaul Karim, the learned Advocate appearing on behalf of opposite party No.2-complainant-Bank candidly admits that the parties executed a deed of compromise on 02.08.2026 and confirms that the accused-petitioner has fully cleared his liabilities directly with the complainant Bank. In support thereof the Bank issued a clearance certificate dated 02.08.2026, certifying that no dues remain outstanding against the petitioner.

The learned Advocate further submits that the bank has no objection if the sentence of imprisonment is set aside and the fine of sentence is reduced. He also admits that since the accused-petitioner paid the entire liability directly to the complainant-Bank, he is entitled to get refund the amount of Taka 28,500/- from the trial Court.

During hearing of this matter Mr. Md. Nurul Alam, Principal Officer, Agrani Bank Limited, Patia Branch, Chattogram appeared in person before this Court and endorsed the settlement, confirming full satisfaction of the claim and expressing no objection to the quashing of the sentence and refund of the deposited funds to the accused-petitioner by the trial Court.

I have heard the learned Advocates for both the parties and perused the application for compromise together with the deed of compromise (Annexure-1). It is evident that both the parties have amicably resolved their dispute out of Court.

Although the offence under Section 138 of the Negotiable Instruments Act is not explicitly compoundable, the parties have jointly prayed for recording the compromise and for disposal of the case in terms of the compromise by setting aside the judgment and order of conviction and sentence passed against the petitioner. In this regard, reliance may be placed on the decisions passed in the case of ***Subash***

Chandra Sarker Versus The State and another, reported in 26 BLT(AD) 28, ***Haroon-or-Rashid Vs. The State***, reported in 76 DLR(2024) 23 and ***Bulbul Sharif (Md.) Vs. State***, reported in 68 DLR(2016) 314 and find substance in the application.

Considering the submissions advanced by the learned Advocates appearing for both the parties and the facts and circumstances of the case and the terms of the deed of compromise dated 02.08.2026, this court is inclined to allow the application for recording the compromise and to accept the said deed of compromise.

Accordingly, the application for recording compromise and disposing of the Rule on the basis thereof is allowed.

In the result, the Rule is disposed of in terms of the compromise deed dated 02.08.2026.

It is admitted that the petitioner deposited Taka 28,500/- with the trial Court before preferring the appeal and subsequently, he discharged the entire liability including the cheque amount to the complainant-bank directly. In view of such payment, the amount of Taka 28,500/- deposited by the petitioner with the trial Court is liable to be refunded to him.

Accordingly, the trial Court is directed to refund and disburse the said deposited amount of Taka 28,500/- to the accused-petitioner forthwith upon proper identification.

Consequently, the substantive sentence of imprisonment for 04(four) months imposed upon the petitioner is set aside and the convict-petitioner is acquitted of the charge leveled against him. The convict-petitioner is accordingly, released from his bail bond.

Send down the lower Court's records (LCR) at once. Communicate this judgment and order to the Court concerned forthwith.

(Md. Bashir Ullah, J.)

Md. Ariful Islam Khan
Bench Officer