



NC: 2026:KHC:34493
CRL.A No. 404 of 2014
C/W CRL.A No. 402 of 2014
CRL.A No. 403 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.404 OF 2014 (A)

C/W

CRIMINAL APPEAL NO.402 OF 2014

CRIMINAL APPEAL NO.403 OF 2014

IN CRL.A No.404/2014

BETWEEN:

M/S. HERANBA INDUSTRIES LTD.
#597, III MAIN, I CROSS
V STAGE, BEML LAYOUT
RAJARAJESHWARI NAGAR
BENGALURU-560 058
REPRESENTED BY ITS
ZONAL MANAGER
& AUTHORISED SIGNATORY
U. DEVARAJ.

...APPELLANT

(BY SRI VINAY SHREYAS, FOR SRI G.S. PRASANNA KUMAR, ADVOCATES)

AND:

ANNADATHA COMMERCIAL CORPORATION
MAIN ROAD, SHAHAPURA
GULBARGA DISTRICT-585 101
REPRESENTED BY ITS PROPRIETOR
B.N. PATIL.

...RESPONDENT

(BY MS. PREETHA M., FOR SRI SANTOSHRAJ C. DESHMUKH AND
SRI SURAJ PATIL, ADVOCATES)

* * *

Digitally
signed by
RAKSHA
Location:
High
Court of
Karnataka



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THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(4) AND (5) OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 20-3-2014 PASSED IN CRIMINAL CASE NO.28353 OF 2006 PASSED BY XXI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU AND FURTHER PRAYS FOR CONVICTION OF RESPONDENT/ACCUSED IN ACCORDANCE WITH PROVISION OF SECTION 138 OF NI ACT.

IN CRL.A NO. 402/2014

BETWEEN:

M/S. HERANBA INDUSTRIES LTD.
#597, III MAIN, I CROSS
V STAGE, BEML LAYOUT
RAJARAJESHWARI NAGAR
BENGALURU-560 058
REPRESENTED BY ITS
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ADVOCATES)

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MAIN ROAD, SHAHAPURA
GULBARGA DISTRICT-585 101
REPRESENTED BY ITS PROPRIETOR
B.N. PATIL.

...RESPONDENT

(BY MS. PREETHA M., FOR SRI SANTOSHRAJ C. DESHMUKH
ADVOCATES)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(4 & 5)



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OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 20-3-2014 PASSED IN CRIMINAL CASE NO.18662 OF 2006 PASSED BY XXI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU AND FURTHER PRAYS FOR CONVICTION OF RESPONDENT/ACCUSED IN ACCORDANCE WITH PROVISION OF SECTION 138 OF NI ACT.

IN CRL.A NO. 403/2014

BETWEEN:

M/S. HERANBA INDUSTRIES LTD.
#597, III MAIN, I CROSS
V STAGE, BEML LAYOUT
RAJARAJESHWARI NAGAR
BENGALURU-560 058
REPRESENTED BY ITS
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OF THE CODE OF CRIMINAL PROCEDURE, PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 20-3-2014 PASSED IN CRIMINAL CASE NO.31234 OF 2006 PASSED BY XXI ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU AND FURTHER PRAYS FOR CONVICTION OF RESPONDENT/ACCUSED IN ACCORDANCE WITH PROVISION OF SECTION 138 OF NI ACT.

THESE CRIMINAL APPEALS, COMING ON FOR FURTHER ARGUMENTS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

Heard learned counsel for the appellant and learned counsel for the respondent.

2. The appellant has filed these appeals under Sections 378(4) and (5) of CrPC praying to set aside the judgment of acquittal dated 20.03.2014 passed in C.C.No.28353/2006, C.C.No.18662/2006 and C.C.No.31234/2006 by learned XXI Addl. Chief Metropolitan Magistrate, Bangalore and prays for conviction of respondent/accused for the offence punishable under Section 138 of N.I. Act.

3. At this juncture, learned counsel for the respondent contended that by virtue of the judgment of Hon'ble Apex Court in the case of **M/s. Celestium Financial v. A.**



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Gnanashekaran etc., in Special Leave Petition(Crl.) Nos.137-139/2025 reported in 2025 INSC 804 dated 08.04.2025, wherein the Hon'ble Supreme Court observed that the appeal lies to the District Court and not to the High Court.

3. Whereas, learned counsel for the appellant vehemently contended that the Hon'ble Supreme Court in the case of **M/s. Everest Automobiles v. M/s. Ranjit Enterprises** in Special Leave to Appeal(Crl.) No.12350/2024 disposed of on 12.02.2026, wherein the judgment of the Apex Court in **Celestium Financial v. A. Gnanasekaran** was relied upon, was referred to a larger bench.

4. On perusal of the material on record, the appellant has filed these appeals being aggrieved by the judgment of acquittal passed by the trial Court for the offence punishable under Section 138 of N.I. Act. The Hon'ble Supreme Court in the case of **M/s. Celestium Financial v. A. Gnansekaran** reported in **2025 SCC Online SC 1320**, at para 10 has observed as under:-

10. As already noted, the proviso to Section 372 of CrPC was inserted in the statute book only with



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effect from 31.12.2009. The object and reason for such insertion must be realised and must be given its full effect to by a court. In view of the aforesaid discussion, we hold that the victim of an offence has the right to prefer an appeal under the proviso to Section 372 of CrPC, irrespective of whether he is a complainant or not. Even if the victim of an offence is a complainant, he can still proceed under the proviso to Section 372 and need not advert to sub-section (4) of Section 378 of Cr.PC."

5. In the light of the decision cited supra with regard to legal position in case of acquittal judgment passed by the trial Court for the offence under Section 138 of N.I. Act, the aggrieved party can file an appeal against the judgment of acquittal passed by the trial Court before the Sessions Court, since the appellant will be considered as a victim. If the High Court were to proceed to hear and decide the appeals at this juncture, definitely it could deprive the parties of an available forum i.e., High Court, for further challenge. A similar view has been taken by various High Courts. Therefore, in the light of the judgment in the case of **M/s. Celestium Financial v. A. Gnansekaran** and judgment of various High Courts, it is deemed fit that the present appeals be transferred to the



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concerned appellate Court of Sessions Division to deal with the matters. Accordingly, I proceed to pass the following:

ORDER

1. Crl.A.No.404/2014, Crl.A.No.402/2014 and Crl.A.No.403/2014 are disposed for statistical purpose.
2. The Registry is directed to transmit the entire appeal papers alongwith trial Court records forthwith to the concerned Prl. District & Sessions Judge, in order to assign the matters to the concerned appellate Court having jurisdiction, who in-turn, is directed to issue Court notice to both the parties to appear before the concerned Court and thereafter dispose of the matters in accordance with law.
3. Keeping in view the age of the litigation, the appellate Court is directed to make an endeavour to dispose of the matters expeditiously.



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4. It is made clear that this Court has not made any observations as to the merits of the cases and all rights and contentions of the parties are left open to be agitated before the concerned Court in the light of the decisions cited supra.

5. Pending IAs, if any, stands disposed of.

Sd/-
(VENKATESH NAIK T)
JUDGE

MN
List No.: 1 Sl No.: 11