



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 832 OF 2022 (A)

BETWEEN:

M/S. DELWIN PLYWOODS
REP BY ITS VICE PRESIDENT
MR JACOB MATHEW
NO.320/3, OPP. BHEL
RANGANATHA COLONY
FLOWER GARDEN MYSORE ROAD
BENGALURU - 560 026

...APPELLANT

(BY SRI. DEEPAK D.C., ADVOCATE)

AND:

NEESHA CONSTRUCTION
REP BY ITS PROPRIETOR
MR ABHAY DESAI
OFFICE AT NO.42/5



KOTTIGENAHALLI VILLAGE,
JALA HOBLI, YELAHANKA,
BENGALURU - 560 064.

...RESPONDENT

THIS CRL.A. IS FILED U/S.378(4) OF CR.P.C. FILED BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HONORABLE COURT MAY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 09.03.2022 PASSED IN C.C.NO.3617/2019 AND REMAND THE MATTER FOR ADJUDICATION OF THE SAID MATTER ON THE FILE OF THE 24TH ADDITIONAL SMALL CAUSES JUDGE ADDITIONAL CHIEF METROPOLITAN MAGISTRATE BENGALURU AND XXII ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



ORAL JUDGMENT

1. The appellant being a complainant approached this Court seeking to set aside the order dated 09.03.2022 passed in C.C.No.3617/2019 on the file of the XXIV Addl. Small Causes Judge and XXII ACMM, Bengaluru, wherein the Trial Court dismissed the case for want of proper prosecution.
2. The learned counsel for the appellant submitted that on 09.03.2022, the impugned order was passed which was against the proceeding of the order sheet. In fact, on several occasions steps were taken and NBW was issued against the accused. However, the jurisdictional police have not taken any proper steps to secure the presence of the accused.
3. It is further submitted that the complainant is having a good case on merit, if the order is confirmed, great prejudice would be caused to the complainant/appellant. Therefore, the order may be set aside and permit the complainant to proceed with a case, after taking proper steps.
4. Having considered the submissions and also on perusal of the order passed by the Trial Court, it appears that, the



complaint has been dismissed for want of proper prosecution. The said order is nothing but an order of acquittal. However, this Court has having no jurisdiction to deal with the order of acquittal. However, the Hon'ble Supreme Court in ***Celestium Financial Vs. A. Gnanasekaran Etc.***¹, held in paragraph No.10 as under:

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

5. On careful reading of the judgment of the Hon'ble Apex Court *supra*, it is evident that the complainant, being the victim, has to file an appeal against the order of acquittal

¹ 2025 SCC Online SC 1320



before the Jurisdictional Sessions Court by invoking Section 372 of the Code of Criminal Procedure, 1973.

6. In view of the law laid down by the Hon'ble Apex Court, in ***Celestium Financial*** case supra, the appeal by the complainant against the order of acquittal is not maintainable before this Court. Since this Court has no jurisdiction to decide the appeal on merit, the appeal is transferred to the jurisdictional Appellate Court/Sessions Court for disposal.
7. The parties shall appear before the jurisdictional Appellate Court / Sessions Court on **28.07.2026**, without further notice of the concerned Court.
8. The Registry shall transmit entire appeal papers including appeal memo to the jurisdictional Sessions Court.
9. The learned counsel for the appellant shall have the liberty to carry out the amendment in the cause title and also the provisions thereof.
10. For statistical purpose, this appeal along with I.A.No.1/2022 stand disposed off.



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11. Ordered accordingly.

Sd/-
(S RACHAIAH)
JUDGE

JS/-