



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

236

CRM-A-2570-2019

Date of decision : 18.05.2026

Virender

... Applicant

Versus

Prem and others

.. Respondents

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Ms. Manya Anand, Advocate for
Mr. Pawan Kumar Hooda, Advocate for the applicant/appellant.

H.S. Grewal, J.(Oral)

1. The present application has been preferred under Section 378(4) Cr.P.C. seeking grant of leave to appeal of the judgment of acquittal dated 16.09.2019 passed by Id. JMIC, Panipat in the complaint No. RBT/66A/2018 titled as Virender Vs Prem and others under Sections 148,149,323,324,325,506 of IPC.

2. The case of the complainant, in brief, is that the complainant and his companions were deputed by the respectables of the Balmiki Panchayat to make arrangements for the Balmiki Jayanti celebrations scheduled to be held on 18.10.2013. The accused persons were opposed to the complainant and his companions participating in the said celebrations. On 06.10.2013 at about 8:00 AM, when the complainant along with Deepak son of Hawa Singh, Dinesh son of Balwan, Surender son of Mange Ram and Rakesh son of Rajinder were whitewashing the chaupal building, the accused persons formed an unlawful assembly and came to the spot armed with lathis, iron rods and sharp-edged weapons. Accused Om Parkash exhorted the other accused to teach a lesson to the complainant and his companions for taking charge of the whitewashing



work and gave a lathi blow on the head of the complainant. Accused Ram Kumar inflicted iron rod blows on the complainant's left arm and head. When Deepak and Dinesh intervened to rescue the complainant, accused Prem gave lathi blows on the right hand of Deepak and accused Aman also inflicted lathi blows on his back. Accused Om Parkash, Narender and Naresh assaulted Dinesh with iron rods, while accused Jag Mohan also gave lathi blows to the complainant. Accused Naresh further inflicted a knife blow on the left cheek of the complainant. Deepak and Dinesh were rescued by Surender son of Mange Ram, Rakesh son of Balwan, Sanjay son of Jagdish and Amit son of Rajinder, who were present at the spot. On hearing the commotion, a large number of persons gathered at the spot, whereupon the accused threatened to kill the complainant and his companions and fled away from the scene of occurrence. Thereafter, the complainant, Deepak and Dinesh were taken to General Hospital, Panipat, where they were medico-legally examined. The complainant and Deepak were found to have sustained fractures.

3. I have heard learned counsel for the applicant and have perused the material available on record.

4. Before proceeding to hear the application (for grant of leave to appeal)/appeal, it is important to decide whether the right of the victim to file an appeal against acquittal in a complaint case would fall under Section 372 or Section 378(4) of Cr.P.C.

5. Hon'ble the Supreme Court in *M/s Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208*, had laid comprehensive interpretation of Sections 372 and 378(4) of Cr.P.C. and had concluded that the



victim has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions. The relevant extract thereof is reproduced hereunder:-

"7.12 xxxxxxxx

Secondly, the right of a victim of a crime must be placed on par with the right of an accused who has suffered a conviction, who, as a matter of right can prefer an appeal under Section 374 of the CrPC. A person convicted of a crime has the right to prefer an appeal under Section 374 as a matter of right and not being subjected to any conditions. Similarly, a victim of a crime, whatever be the nature of the crime, unconditionally must have a right to prefer an appeal.

Thirdly, it is for this reason that the Parliament thought it fit to insert the proviso to sub-section 372 without mandating any condition precedent to be fulfilled by the victim of an offence, which expression also includes the legal representatives of a deceased victim who can prefer an appeal.

On the contrary, as against an order of acquittal, the State, through the Public Prosecutor can prefer an appeal even if the complainant does not prefer such an appeal, though of course such an appeal is with the leave of the court. However, it is not always necessary for the State or a complainant to prefer an appeal. But when it comes to a victim's right to prefer an appeal, the insistence on seeking special leave to appeal from the High Court under Section 378(4) of the CrPC would be contrary to what has been intended by the Parliament by insertion of the proviso to Section 372 of the Cr.P.C.

Fourthly, the Parliament has not amended Section 378 to circumscribe the victim's right to prefer an appeal just as it has with regard to a complainant or the State filing an appeal. On the other hand, the Parliament has inserted the proviso to Section 372 so as to envisage a superior right for the victim of an offence to prefer an appeal on the grounds mentioned therein as compared to a complainant.



Fifthly, the involvement of the State in respect of an offence under Section 138 of the Act is conspicuous by its absence. This is because the complaint filed under that provision is in the nature of a private complaint as per Section 200 of the Cr.P.C. and Section 143 of the Act by an express intention incorporates the provisions of the Cr.P.C. in the matter of trial of such a deemed offence tried as a criminal offence. Therefore, the complainant, who is the victim of a dishonour of cheque must be construed to be victim in terms of the proviso to Section 372 read with the definition of victim under Section 2(wa) of the Cr.P.C.

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10. As already noted, the proviso to Section 372 of the Cr.P.C. 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 Cr.P.C., 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.P.C. "

6. In view of the judgment passed by the Hon'ble Supreme Court in **Celestium Financial** (supra) which has been followed by this Court in **CRM-A-886-MA-2015**, tilted as '**Rajesh Kumar versus M/s Success Enterprises and another**', decided on 08.07.2025 and similar view taken by the Coordinate Bench of this Court in **CRM-A-2700-MA-2018**, tilted as '**Satish Kumar vs. Jugal Kishor**' decided on 02.07.2025, the present application seeking leave to appeal is, hereby, disposed of with the direction to the learned Sessions Judge, Panipat to treat the present leave to appeal as an



appeal filed under Section 372 of Cr.P.C. and entrust the same to appropriate Court for its disposal.

- 7. The Registry is directed to send the complete paper-book and the record of the case to the learned Sessions Judge, Panipat forthwith.
- 8. Pending applications, if any, shall also disposed of.

18.05.2026

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Whether speaking/reasoned

Whether reportable

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Yes/No

Yes/No

(H.S.GREWAL)

JUDGE