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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 1291/2019 & CRL.M.A. 42668/2019

INDER PAL SINGH

.....Petitioner

Through: Mr. Manish Kaushik and Mr. Ajit
Singh Joher, Advs.

versus

STATE & ANR

.....Respondents

Through: Mr. Digam Singh Dagar, APP for
State.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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07.11.2024

1. Counsel for petitioner seeks leave to withdraw this petition with the liberty to agitate their appeal against acquittal of respondent/accused in proceedings under Section 138, NI Act before this Court in view of Section 378(4) Cr.P.C.
2. Initially, petitioner had filed an appeal against acquittal of respondent/accused before ASJ, South, Saket Courts, which was dismissed based on reading of proviso to Section 372 and Section 378(4), Cr.P.C. read along with decision of the Supreme Court in ***Mallikarjun Kodagali (Dead) represented through Legal Representatives v. State of Karnataka & Ors.***, (2019) 2 SCC 752.
3. ***Mallikarjun Kodagali*** (*supra*) clearly resolves the issue raised by the petitioner, in that the complainant has the right to appeal against an acquittal to the Sessions Court in a s. 138 NIA matter. Para 76 reads as under:

“76. As far as the question of the grant of special leave is concerned, once again, we need not be overwhelmed by submissions made at the Bar. The language of the proviso to Section 372 CrPC is quite clear, particularly when it is contrasted with the language of Section 378(4) CrPC. The text of this provision is quite clear and it is confined to an order of acquittal passed in a case instituted upon a complaint. The word “complaint” has been defined in Section 2(d) CrPC and refers to any allegation made orally



or in writing to a Magistrate. This has nothing to do with the lodging or the registration of an FIR, and therefore it is not at all necessary to consider the effect of a victim being the complainant as far as the proviso to Section 372 CrPC is concerned.

(emphasis added)

4. Leave and liberty as prayed for is granted.
5. Petition stands disposed of along with the pending application.
6. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 7, 2024/sm/sc