

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Application for Leave to Appeal No. 525 of 2018

Arun Vishnu Vadagaonkar ... Applicant.
V/s.

Shri Chaitanya Prabhu Shikshan
Prasarak Mandal & ors. ... Respondents.

Mr. Prashant Bhavake	Advocate for the Applicant.
Mr. Drupad Patil	Advocate for Respondent Nos.1 and 2.
Mr. S.V. Walve	APP for the State.

CORAM : S.M. MODAK, J

DATE : 26th June 2025.

P.C. :

Today, the matter is listed on the basis of circulation sought on behalf of the Respondents-accused.

2. Heard learned counsel for the parties.

3. The Respondents-accused were convicted by the Court of Judicial Magistrate, First Class, Kolhapur for an offence punishable under Section 138 of the Negotiable Instrument Act. It was allowed by the Appellate Court and that is how the original Complainant has sought for leave to prefer an appeal.

4. As per the judgment of the Hon'ble Supreme Court in the case

of *M/s. Celestium Financial V/s. A. Gnanasekaran etc.*¹, the Complainant in a prosecution under Section 138 of the Negotiable Instrument Act comes within definition of 'victim' and as such leave under Section 378(4) of Criminal Procedure Code ('Cr.P.C.') is not required but an appeal can be filed as per the proviso to Section 372 of Cr.P.C.

5. According to learned counsel for the parties, the Sessions Court has already dealt with an Appeal against conviction and in view of that the present appeal can be entertained only by this Court and not by Sessions Court.

6. In view of that leave application is disposed of.

7. Mr. Patil has invited my attention to the order dated 24th March 2022 wherein the learned Advocates who appeared on that day have agreed to seek adjournment before the learned Sessions Judge. After disposal of the Appeal there was an application filed by the Respondents-accused for withdrawal of the amount which they have deposited during pendency of the Appeal as per the order of the Magistrate Court. Today, it is clarified that there is no stay granted by this Court.

8. Stand over to **24th July 2025.**

(S.M. MODAK, J.)

1 2025 SCC OnLiine SC 1320