

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

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO.143 OF 2025

Sunita Pradeep Kankariya and Ors. ...Applicants/Appellants

V/s.

Suhas Balasaheb Sawkar and Anr. ...Respondents

Mr.Jagdish Chaudhary i/b. M/s. Raj Legal:-	Advocate for Applicants/Appellants.
Ms.Sangita E. Phad:-	APP for Respondent No.2-State.

CORAM : S. M. MODAK, J.

DATE : 27th JUNE 2025

P. C. :-

1. Heard learned Advocate for the Applicants/Complainants.
2. Leave is sought against the judgment of acquittal for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (“**NI Act**”). According to the learned Advocate, even though the Hon’ble Supreme Court in case of *M/s. Celestium Financial V/s. A. Gnanasekaran Etc.*¹ has concluded that the Complainant in a prosecution under Section 138 of the NI Act falls within the meaning

1 2025 SCC OnLine SC 1320

of ‘victim’, still he has got option open to sought a leave as per the provisions of Sub-section 4 to Section 378 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”). He relied upon the observations in case of *Kushal Kawaduji Singanjude V/s. Ramnarayan Durgaprasad Agrawal (Kejadiwal)*². There is observation that “such an Appeal would lie under Section 378(4) and not under Section 372”.

3. By keeping that option open, let notice be issued to the Respondents returnable on 2nd July 2025. Private notice, in addition, is allowed. Affidavit of service be filed.

4. There is a connected Leave Application bearing No.144 of 2025. In that matter also, similar issue is involved. Hence, issue notice in that matter also returnable on 2nd July 2025. Private notice, in addition, is allowed. Affidavit of service be filed.

[S. M. MODAK, J.]

² 2020(1) Mh.L.J.748