NC: 2025:KHC:57071
CRL.A No. 1832 of 2022

HC-KAR

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 15TH DAY OF DECEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE G BASAVARAJA**

**CRIMINAL APPEAL NO. 1832 OF 2022 (A-)**

**BETWEEN:**

1. M/S M P INTEGRATED ROOFING (P) LTD.,
   NO.57/1, G C COLONY ROAD CROSS
   NEAR CORPORATION COLONY
   BANGALORE-560051
   REPRESENTED BY ITS MANAGER SRI N
   MURALIDHARAN

…APPELLANT

(BY SRI. MATHACHAN VARGHESE.,ADVOCATE)

**AND:**

1. SRI C J ANWAR PASHA
   AGED ABOUT 56 YEARS
   PROPRIETOR
   M/S SOVENIR CONSTRUCTIONS
   349, 9TH MAIN, 25TH CROSS
   BANASHANKARI 2ND STAGE
   BANGALORE-560070

…RESPONDENT

(BY SRI. DILIP KUMAR I S.,ADVOCATE
SRI. LINGARAJ S SURAPUR)

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

CRL.A. FILED U/S.378(4) CR.P.C BY THE ADVOCATE FOR THE APPELLANT/S PRAYING THAT THIS HONBLE COURT MAY BE PLEASED TO MAY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 11.07.2018 IN C.C.NO.54786/2014 ON THE FILE OF LVIII ADDL.C.M.M., BENGALURU WHEREBY DISMISSING THE COMPLAINT FILED BY THE APPELLANT U/S 138 OF N.I ACT FOR NON-PROSECUTION AND RESTORE THE COMPLAINT NO.54786/2014 INTO ITS ORIGINAL PLACE.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

**ORAL JUDGMENT**

1. This appeal is filed by the appellant/ complainant being aggrieved by the dismissal of complaint vide order dated 11.07.2018 passed in C.C.NO.54786/2014 by the LVIII Additional Chief Metropolitan Magistrate, Bengaluru (for short "the trial Court").

2. The Hon'ble Supreme Court in the case of CELESTIUM FINANCIAL v. A GNANASEKARAN ETC. reported in 2025 SCC ONLINE SC 1320, at paragraph 10 of the judgment, has observed as under:

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

3. In the light of the Hon'ble Supreme Court's recent clarification of the legal position, it is now evident that the appellant, being the complainant under Section 138 of Negotiable Instruments Act, 1881, is also entitled to file an appeal before the Sessions Court. If this Court were to proceed to hear and decide the appeal at this stage, it could deprive the parties of an available forum, i.e. this Court, for further challenge.

4. Considering the above, it is deemed fit that the present appeal be transferred to the concerned appellate Court of Sessions. Accordingly, I pass the following:

**O R D E R**

i. Registry is directed to transfer the entire record of the case to the concerned Principal District & Sessions Judge, who

may assign it to the concerned Appellate Court having the jurisdiction and for which purpose, it would be listed before the Principal District & Sessions Judge;

ii. The concerned transferee court is directed to issue Court notice to both the parties to appear before the concerned Court, and the concerned Court, thereafter, shall proceed with the case in accordance with law;

iii. In case there are applications pending for condonation of delay or any other pending applications, the same also be transferred to be considered by the learned Judge of transferee Court, in accordance with law;

iv. Considering the matter has been pending for considerable time, the Appellate Court is requested to make an endeavour to dispose of the matter as expeditiously as possible;

v. The appellant is permitted to carry out necessary amendment in the cause-title and also the provisions thereof;

vi. It is made clear that this Court has not made any observations as to the merits of the case and all rights and contentions of the parties are left open to be agitated before the Court concerned.

5. In the light of the above observation and directions, appeal stands ***disposed of***.

**Sd/-**
**(G BASAVARAJA)**
**JUDGE**

DHA
List No.: 3 Sl No.: 37