HC-KAR

NC: 2025:KHC:57422
CRL.A No. 2005 of 2017
C/W CRL.A No. 2006 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.2005 OF 2017 (A)

C/W

CRIMINAL APPEAL NO.2006 OF 2017

IN CRL.A NO.2005/2017

BETWEEN:

SRI M. CHENNAKESHAVA REDDY
S/O. MUNIREDDY M.
AGED ABOUT 35 YEARS
R/AT NO.150/1
NISHA DEVI NILAYA
OPP: ANGANWADI SCHOOL
NEAR MUNESHWARA TEMPLE
NGR LAYOUT, ROOPENA AGRAHARA
BOMMANAHALLI POST
BENGALURU-560 068

…APPELLANT

(BY SRI R. V. SHIVANANDA REDDY, ADVOCATE)

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

AND:

SMT. SUDHA
W/O. AYYAPPA
AGED ABOUT 38 YEARS
R/AT OPP: ANGANWADI SCHOOL
NEAR MUNESHWARA TEMPLE
NGR LAYOUT, ROOPENA AGRAHARA
BOMMANAHALLI POST
BENGALURU-560 068

…RESPONDENT

(BY SRI LOKESH BOOVANAHALLI, ADVOCATE)

CRL.A. FILED U/S 378(4) CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT DATED 01.09.2017 PASSED BY THE XIX ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU IN C.C.NO.8239/2016-ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S. 138 ON N.I. ACT.

IN CRL.A NO.2006/2017

BETWEEN:

SRI M. CHENNAKESHAVA REDDY
S/O. MUNIREDDY M.
AGED ABOUT 35 YEARS
R/AT NO.150/1
NISHA DEVI NILAYA
OPP: ANGANWADI SCHOOL
NEAR MUNESHWARA TEMPLE
NGR LAYOUT, ROOPENA AGRAHARA
BOMMANAHALLI POST, BENGALURU-560 068

...APPELLANT

(BY SRI R. V. SHIVANANDA REDDY, ADVOCATE)

AND:

SMT. SUDHA
W/O. AYYAPPA
AGED ABOUT 38 YEARS
R/AT OPP: ANGANWADI SCHOOL
NEAR MUNESHWARA TEMPLE
NGR LAYOUT, ROOPENA AGRAHARA
BOMMANAHALLI POST, BENGALURU-560 068

...RESPONDENT

(BY SRI LOKESH BOOVANAHALLI, ADVOCATE)

CRL.A. FILED U/S.378(4) CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 01.09.2017 PASSED BY THE XIX ADDL.C.M.M., BENGALURU IN C.C.NO.12928/2016-ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S. 138 OF N.I. ACT.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. These appeals are filed by the appellant/complainant being aggrieved by the Judgment of acquittal dated 01.09.2017 passed in CC No.8239/2016 and CC No.12928/2016 by the XIX 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 CrPC was inserted in the statue 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 CrPC, 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.PC.*"

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 against the judgment of acquittal passed by the trial Court before the Sessions Court, since he is considered to be a victim. If this Court were to proceed to hear and decide these appeals at this stage, it could deprive the parties of an available forum, i.e. this Court, for further challenge.

4. Similar view has been taken by the High Court of Andhra Pradesh in CHARBEL INDIA V. STATE OF ANDHRA PRADESH reported in 2025 SCC ONLINE AP 2815; by the High Court of Madhya Pradesh in MANORAMA KANKANE v. NARENDRA KUMAR SHUKLA rendered in Criminal Appeal No.5910 of 2025 decided on 03rd July, 2025; and in the case of M/S. LATA KISAN SEWA KENDRA v. PRITAM SINGH reported in 2025 SCC ONLINE MP 4818; and in SMT. URMIT MADRAH v. SAMARPAN JAIN rendered Criminal Appeal No. 11872 of 2022 decided on 21st July, 2025; the decision of High Court of Chattisgarh in NEELAM SAHU v. NARADNAGWANSHI rendered in ACQA No. 340 of 2018 decided on 16th July, 2025; and in

SMT. KIRTI KURIAN v. AJAY SINGH rendered in ACQA No. 198 of 2019 decided on 16th July, 2025; the judgment of this Court in the case of SIDAGONDAPPA v. SHAFI AHAMAD rendered in CRL.A. No. 20021/2018 decided on 31st July, 2025 and in SRI T.H. LENKAPPA v. SRI SANJAY AND ANOTHER rendered in Criminal Appeal No.146 of 2015 decided on 23rd July, 2025; the decision of High Court of Delhi in the case of D.K. ASSOCIATES v. SHANKAR AND ANOTHER rendered in Criminal Appeal No.694 of 2016 decided on 13th November, 2025 and the decision rendered by the Co-ordinate Bench of this Court in the case of M/S. ANANYA ENTERPRISES v. SRI G.S. GOPALAKRISHNA rendered in Criminal Appeal No.100171 of 2016 decided on 24th November, 2025. An overall assessment of the aforestated decisions reveals that the decision of the Hon'ble Supreme Court in the case of CELESTIUM FINANCIAL (supra) has been relied upon by this Court, as well as other High Courts across the country.

5. Considering the above, it is deemed fit that these appeals be transferred to the concerned appellate Court of Sessions and be considered as an appeal under the proviso to Section 413 of BNSS, 2023 (formerly Section 372 of Cr.PC) and

numbered accordingly. Accordingly, I proceed to pass the following:

O R D E R

i. Registry is directed to transfer the entire record of the case, including the requisitioned copies of the trial court Records, 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 matters 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.

6. In the light of the above observation and directions, appeals stand disposed of.

Sd/-
(G BASAVARAJA)
JUDGE

KBM
List No.: 2 Sl No.: 163