2025:PHHC:092998

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-A-409-2019
Date of decision: July 25, 2025

SUNITA SHARMA

...Applicant

Versus

KRISHAN VINAYAK AND ANR

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Aggarwal, Advocate
for the applicant.

MANJARI NEHRU KAUL, J.(ORAL)

1. The applicant has filed the present application seeking grant of leave to appeal against the judgment of acquittal passed in a complaint case instituted under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'NI Act'), whereby the complaint filed by the applicant was dismissed and the accused was acquitted.

2. The limited question arising for consideration in the present proceedings is whether an appeal against an order of acquittal passed in a complaint case under Section 138 of the NI Act can be entertained under the proviso to Section 372 of the Cr.P.C. at the instance of the complainant?

3. The issue is no longer *res integra*. In ***'M/s Celestium Financial Vs. A. Gnanasekaran Etc. 2025 INSC 804 : 2025(3) RCR (Criminal) 208'***, the Hon'ble Supreme Court authoritatively held that a complainant in a prosecution under Section 138 of the NI Act, qualifies as a 'victim' under Section 2(wa) of the Cr.P.C., being the person who suffers financial loss due to the dishonour of a cheque. Consequently, such a complainant is entitled to pursue an appeal against acquittal under the proviso to Section 372 of the Cr.P.C., without the requirement of seeking special leave under Section 378(4) of the Cr.P.C.

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4. Adopting a pragmatic and justice oriented approach and guided by the principle that procedural rule must serve and not obstruct the course of justice, this Court deems it appropriate to direct that the present appeal be treated as one authoritatively instituted under the proviso to Section 372 of the Cr.P.C.

5. In view of the authoritative pronouncement in ***M/s Celestium Financial's case (supra)*** and the view taken by this Court also in subsequent cases including in ***Rajat Deep v. Prince, CRM-A-1320-MA-2016***, disposed off on 21.07.2025, the present application is disposed of with a direction that the learned Sessions Judge concerned shall treat the present appeal as an appeal filed under the proviso to Section 372 of the Cr.P.C. and assign the same to an appropriate Court for disposal on merits, in accordance with law.

6. The concerned Appellate Court shall proceed to decide the appeal expeditiously, without being impeded by any delay in filing the appeal, in view of the legal position now clarified by the Hon'ble Apex Court.

7. The Registry is directed to transmit this order along with copy of the complete paper-book and return the trial Court record, if received, to the learned Sessions Judge.

8. Disposed of accordingly.

July 25, 2025 **(MANJARI NEHRU KAUL)**
Jaspreet Kaur **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

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