



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(124)

CRM-A-364-MA-2013 (O&M)

Date of Decision : 03.09.2025

Ram Kishan Birbian

...Appellant

Versus

Rambir Singh Toor

...Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. Gurinder Singh, Advocate for the appellant.

Mr. Akashdeep Singh, Advocate for the respondent.

Subhas Mehla, J. (Oral)

CRM-31088-2013

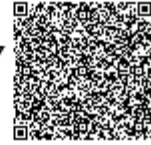
Application is allowed, as prayed for.

CRM-A-364-MA-2013

1. The present application has been preferred under Section 378(4) of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking grant of leave to appeal against the judgment of acquittal dated 18.05.2012 passed by the learned Judicial Magistrate 1st Class, Chandigarh in a complaint case filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter 'NI Act').

2. Heard.

3. The Hon'ble Supreme Court in *M/s Celestium Financial vs. A. Gnanasekaran Etc.*, 2025(3) RCR (Criminal) 208, after considerable discussion and comparative interpretation of Sections 372 and 378(4) of Cr.P.C., concluded that the victim has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions. Reliance in this regard can



also be placed on **Satish Kumar Versus Jugal Kishor** in CRM-A-2700-MA-2018 decided on 02.07.2025. Further still, applying the doctrine of prospective overruling, the Hon'ble Supreme Court in **Directorate of Revenue Intelligence Vs. Raj Kumar Arora** in SCC Online 819 has clarified that as a rule of thumb, judgments rendered shall be applicable retrospectively.

4. Therefore, in view of the judgment rendered by the Apex Court in *Celestium Financial (supra)*, the present application seeking leave to appeal is remanded back to the learned Sessions Judge concerned with a direction to treat the same as filed under Section 372 of the Cr.P.C. and to dispose of by himself or entrust it to appropriate Court for its disposal.

5. The parties are directed to appear before the learned Sessions Judge on 25.09.2025 at 10.00 a.m.

6. The Registry is directed to send the complete paper-book and the record of the case to the learned Sessions Judge concerned forthwith.

7. Disposed of accordingly.

September 03, 2025

kanchan

(SUBHAS MEHLA)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No