IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

250(3)

CRM-A-1804-MA-2016 (O&M)
Date of Decision: July 24, 2025

Rajinder Kumar

.....Applicant(s)

Versus

Babli

.....Non-applicant(s)/Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: None.

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SANJAY VASHISTH, J.

1. Applicant – Rajinder Kumar has filed the present application seeking grant of leave to appeal against the judgment of acquittal dated 03.09.2016, passed by learned Judicial Magistrate Ist Class, Ambala, in Complaint case bearing No. 333, CIS No. 252, instituted on 13.03.2015/ 18.02.2015, under Section(s) 138 of the Negotiable Instruments Act, 1881, titled as 'Rajinder Kumar v. Babli', whereby the complaint filed by the applicant(s) herein has been dismissed by acquitting the accused.

2. Shorn off the factual matrix of the present case, it is suffice to notice that in the recent mandate of law laid down by Hon'ble the Apex Court, in the case of **M/s Celestium Financial v. A. Gnanasekaran etc. [Criminal Appeal Nos. 1868-70 of 2025, decided on 08.04.2025, reported as 2025 (3) RCR (Criminal) 208 : Law Finder Doc Id # 2737710 : 2025 SCC OnLine SC 1320]**, their Lordships' have answered the issue in affirmative that whether an appeal would be maintainable under the proviso to Section 372 Cr.P.C. (corresponding Section 413 of BNSS, 2023), against an order of acquittal passed in a case instituted upon a private complaint, by treating the complainant in such a proceeding as a 'victim' within the meaning ascribed to the term under Section 2(wa) of the Cr.P.-C.

3. After encapsulating in detail the provisions of Sections 2(d), (n) & (wa), 24, 200, 372, 377, 378, 386 of the Cr.P.C.; Sections 138, 139,

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141, 142, 143 and 147 of the Negotiable Instruments Act, 1881; and the earlier view point of the Hon'ble Supreme Court taken in the case of **Mallikarjun Kodagali (dead) represented through Legal representative v. State of Karnataka, (2019) 2 SCC 752**, an ongoing debate whether the right of the victim to file an appeal against acquittal in a complaint case would fall under Section 372 or Section 378(4) of Cr.P.C., has been put to rest. Succinctly, in **Celestium Financial's case (supra)** it has been held that the 'victim' has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions.

4. It is apposite to mention here that the judgment in the case of **Celestium Financial (supra)** has been followed and relied upon by this Court in the case of **M/s Associated Road Carriers Limited v. Manjit Singh and others (CRM-A-885-MA-2013, decided on 07.07.2025)** as well as by a Co-ordinate Bench of this Court in the case of **Satish Kumar v. Jugal Kishor (CRM-A-2700-MA-2018, decided on 02.07.2025)**.

5. Having gone through the recent mandate of Hon'ble the Apex Court in **Celestium Financial's case (supra)**, and the view taken by this Court in the case of **M/s Associated Road Carriers Limited (supra)** as well as by a Co-ordinate Bench of this Court in the case of **Satish Kumar (supra),** there exists no ground to take a different view in the present case.

6. Accordingly, the present application under Section 378(4) Cr.P.C. is disposed of by directing the learned Sessions Judge, Ambala, to treat the present leave to appeal as an appeal filed under Section 372 of the Cr.P.C. and entrust the same to any appropriate Court to try the same. The concerned Court shall decide the appeal on merits as per law, as expeditiously as possible.

Since similar directions are being passed by this Court in number of cases, the concerned Appellate Court need not to adhere to the delay aspect, if any, involved in the case, for the purpose of considering the issue raised in the appeal and its disposal on merit.

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7. The Registry is directed to transmit this order alongwith copy of the complete paper-book of this case, as also return the record of the Trial Court, if received, to the learned Sessions Judge, Ambala, forthwith.

8. Disposed of accordingly.

9. Pending miscellaneous application(s), if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

July 24, 2025
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Whether speaking/reasoned *Yes*
Whether reportable *No*

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