



CRM-A-665-MA-2016

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

208

CRM-A-665-MA-2016

Date of decision : 11.11.2025

Kanhiya Lal

... Applicant

Versus

Jagram

.. Respondent

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Sandeep Kumar Yadav, Advocate for the applicant.

Mr. Rajiv Rathor, Advocate for
Mr. Manish Mehta, Advocate for the respondent.

H.S. Grewal, J.(Oral)

1. The present application has been preferred under Section 378(4) Cr.P.C. seeking grant of leave to appeal of the judgment of acquittal dated 15.02.2016 passed by the learned Judicial Magistrate Ist Class, Mahendergarh in the complaint case filed under Sections 120B, 420, 467, 468 and 471 IPC.
2. Brief facts of the case are that accused, Jagram, representing himself to be the owner in possession of land measuring 20 kanals, comprising his share in Khewat Nos. 145 and 146 as per Jamabandi for the year 2000-01, situated within the revenue estate of village Jhook, District Mahendergarh (Haryana), entered into an agreement to sell dated 17.08.2009. The said agreement pertains to his 200/1587 share in Khewat No. 145, Khatoni No. 197, measuring 10 kanals, and 200/1530 share in Khewat No. 146, Khatoni No. 198, measuring another 10 kanals, in favour of the complainant and one Mukesh,

**CRM-A-665-MA-2016****-2-**

son of Brahmdutt, at the rate of ₹10,00,000/- per acre. At the time of execution of this agreement, the accused received a sum of ₹11,00,000/- as earnest money towards part payment of the sale consideration. However, at the time of executing the aforesaid agreement to sell dated 17.08.2009, the accused Jagram was not the owner in possession of the said land. By virtue of an earlier agreement to sell dated 23.03.2006, which had been extended up to 02.08.2006, he had already alienated his entire share in Khewat Nos. 145 and 146 in favour of one Rishal Singh, son of Ganeshi Lal. In this regard, Rishal Singh had already filed a suit for specific performance against Jagram, in which the latter had duly appeared. Despite this, the accused deliberately concealed these facts with the intention to deceive the complainant and Mukesh and thereby induced them to enter into the subsequent agreement and part with their money. Thus, the accused is alleged to have committed fraud and cheating upon the complainant and Mukesh, leading to the filing of the present complaint was dismissed by learned trial Court vide judgment dated 15.02.2016 and the accused was acquitted. Feeling aggrieved with the said finding, the present application seeking grant of leave to appeal has been preferred.

3. I have heard learned counsel for the applicant and have perused the material available on record.

4. Before proceeding to hear the application (for grant of leave to appeal)/appeal, it is important to decide 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.

5. Hon'ble the Supreme Court in *M/s Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208*, had laid comprehensive

**CRM-A-665-MA-2016****-3-**

interpretation of Sections 372 and 378(4) of Cr.P.C. and had concluded that the victim has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions. The relevant extract thereof is reproduced hereunder:-

"7.12 xxxxxxxx

Secondly, the right of a victim of a crime must be placed on par with the right of an accused who has suffered a conviction, who, as a matter of right can prefer an appeal under Section 374 of the CrPC. A person convicted of a crime has the right to prefer an appeal under Section 374 as a matter of right and not being subjected to any conditions. Similarly, a victim of a crime, whatever be the nature of the crime, unconditionally must have a right to prefer an appeal.

Thirdly, it is for this reason that the Parliament thought it fit to insert the proviso to sub-section 372 without mandating any condition precedent to be fulfilled by the victim of an offence, which expression also includes the legal representatives of a deceased victim who can prefer an appeal.

On the contrary, as against an order of acquittal, the State, through the Public Prosecutor can prefer an appeal even if the complainant does not prefer such an appeal, though of course such an appeal is with the leave of the court. However, it is not always necessary for the State or a complainant to prefer an appeal. But when it comes to a victim's right to prefer an appeal, the insistence on seeking special leave to appeal from the High Court under Section 378(4) of the CrPC would be contrary to what has been intended by the Parliament by insertion of the proviso to Section 372 of the Cr.P.C.

Fourthly, the Parliament has not amended Section 378 to circumscribe the victim's right to prefer an appeal just as it has with regard to a complainant or the State filing an appeal. On the other hand, the Parliament has inserted the proviso to Section 372 so as to envisage a superior right for the victim of an offence to



CRM-A-665-MA-2016

-4-

prefer an appeal on the grounds mentioned therein as compared to a complainant.

Fifthly, the involvement of the State in respect of an offence under Section 138 of the Act is conspicuous by its absence. This is because the complaint filed under that provision is in the nature of a private complaint as per Section 200 of the Cr.P.C. and Section 143 of the Act by an express intention incorporates the provisions of the Cr.P.C. in the matter of trial of such a deemed offence tried as a criminal offence. Therefore, the complainant, who is the victim of a dishonour of cheque must be construed to be victim in terms of the proviso to Section 372 read with the definition of victim under Section 2(wa) of the Cr.P.C.

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

6. In view of the judgment passed by the Hon'ble Supreme Court in **Celestium Financial** (supra) which has been followed by this Court in **CRM-A-886-MA-2015**, tilted as '**Rajesh Kumar versus M/s Success Enterprises and another**', decided on 08.07.2025 and similar view taken by the Coordinate Bench of this Court in **CRM-A-2700-MA-2018**, tilted as '**Satish Kumar vs. Jugal Kishor**' decided on 02.07.2025, the present application seeking leave to appeal is, hereby, disposed of with the direction to



CRM-A-665-MA-2016

-5-

the learned Sessions Judge, Mahendergarh to treat the present leave to appeal as an appeal filed under Section 372 of Cr.P.C. and entrust the same to appropriate Court for its disposal.

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

11.11.2025
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(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No