



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

CRM-A-688-2025 (O & M)
Date of decision: 15.09.2025

SAHIL KUMAR

...APPLICANT

V/S

SANJAY

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Present: Mr. Abhisar Chaudhary, Advocate with
Ms. Geetanjali Bhatia, Advocate
for the applicant.

SUBHAS MEHLA, J. (ORAL)

1. The present application has been preferred under Section 419(4) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 (hereinafter 'BNSS, 2023') (*erstwhile Section 378(4) Cr.P.C.*) seeking grant of leave to appeal against the judgment of acquittal dated 29.01.2025 passed by learned Judicial Magistrate 1st Class, Bhiwani in a complaint case filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter 'NI Act').

2. 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



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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.

3. 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/herself or entrust it to appropriate Court for its disposal.

4. The application for condonation of delay shall be decided by the appellate Court, after providing opportunity of hearing to the opposite party.

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

6. Disposed of accordingly.

September 15, 2025
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(SUBHAS MEHLA)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No