



252 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1627-2019 (O&M)
Date of Decision: 04.11.2025

BRIJESH KUMAR Applicant
Versus
PAWAN KUMAR KAMBOJ AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. R.K. Agnihotri, Advocate for the applicant.

YASHVIR SINGH RATHOR, 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 Sections 379, 506 and 34 of IPC, 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 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***', Hon'ble Supreme Court has 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. A Division Bench of this Court in Law



Finder Doc ID # 2779901 titled as ‘*Bawa Singh Vs. State of Punjab*’ in a case pertaining to Sections 420, 467, 468, 471, 120-B IPC, has held that appeal against acquittal in a complaint case lies to the Court of Sessions in terms of Section 378(4) of the Cr.P.C. and the complainant in the complaint case qualifies as a victim under Section 2(wa) of the Cr.P.C. Resultantly, this Court deems it appropriate to direct the present appeal to be treated as one instituted under the proviso to under Section 372 of Cr.P.C.

4. Resultantly, present application is disposed of with a direction that the 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. 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.

5. 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.

6. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

04.11.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No