



CRR-2365-2022 (O&M)

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

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**CRR-2365-2022 (O&M)
Date of Decision: 13.11.2025**

VIJAY PAL

..... Petitioner

Versus

SHIV GANGA AND COMPANY AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present Mr. Mohit, Advocate for the petitioner.

Mr. Rajesh Bansal, Advocate for the respondents.

ANOOP CHITKARA, J. (ORAL)

1. Present petition has been filed for setting aside the impugned judgment dated 06.06.2022 passed by learned Sessions Judge, Panipat in petitioner/complainant's appeal i.e. CRA-33-2022 titled Vijay Pal Vs. Shiv Ganga and another, whereby learned Sessions Court dismissed the petitioner's appeal against order dated 28.02.2022 passed by learned Judicial Magistrate Ist Class, Panipat in petitioner's complaint i.e. NACT-3018-2017 titled Vijay Pal Vs. Shiv Ganga and another, for enhancement of compensation and sentence of respondent No.2.

2. Counsel for the petitioner submits that the learned Appellate Court dismissed the appellant's appeal mainly on the ground of non-maintainability, as proviso to Section 372 CrPC does not provide any provision for filing an appeal seeking enhancement of the sentence. Furthermore, while considering the second prayer in the appeal before the Sessions Court, the Appellate Court declined the appellant's request and held that the amount of compensation awarded is sufficient and there is no necessity to grant more compensation to the appellant.

3. Counsel for the petitioner further submits that when the appeal itself is not maintainable, the question of considering the adequacy of the compensation is against the basic principle of law.

4. Given the judgment of Celestium Financial v. A. Gnanasekaran, 2025(3)

RCR(Criminal) 208, decided on 08.04.2025, Hon'ble Supreme Court holds,



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[7.8] In the case of an offence alleged against an accused under Section 138 of the Act, we are of the view that the complainant is indeed the victim owing to the alleged dishonour of a cheque. In the circumstances, the complainant can proceed as per the proviso to Section 372 of the CrPC and he may exercise such an option and he need not then elect to proceed under Section 378 of the CrPC.

[8]. The right to prefer an appeal is no doubt a statutory right and the right to prefer an appeal by an accused against a conviction is not merely a statutory right but can also be construed to be a fundamental right under Articles 14 and 21 of the Constitution. If that is so, then the right of a victim of an offence to prefer an appeal cannot be equated with the right of the State or the complainant to prefer an appeal. Hence, the statutory rigours for filing of an appeal by the State or by a complainant against an order of acquittal cannot be read into the proviso to Section 372 of the CrPC so as to restrict the right of a victim to file an appeal on the grounds mentioned therein, when none exists.

[10]. As already noted, the proviso to Section 372 of the CrPC 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 CrPC, 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 CrPC.

5. The appeal filed by the victim itself is maintainable before the Sessions Court/the First Appellate Court, as such, the present judgment is liable to be set aside on this ground.

6. On the other hand, counsel for the respondent submits that the Appellate Court rightly dismissed the appellant's appeal as non-maintainable, and the compensation awarded by the trial Court was adequate in view of the material on record; hence, no further enhancement is permissible *per se*.

7. I have heard counsel for the parties and gone through the record and its analysis would lead to the following outcome.

8. Perusal of the record reflects that the Appellate Court dismissed the appeal, first, on the ground of maintainability and, thereafter, proceeded to consider the prayer for enhancement of compensation, which it declined. However, in view of the judgment in *Celestium Financial (supra)*, the appeal filed before the Appellate Court is maintainable. Accordingly, the impugned judgment dated 06.06.2022 passed by the learned Sessions Judge, Panipat, is set aside, and the matter is remanded back to the learned Appellate Court for fresh



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adjudication in accordance with law. The parties are directed to appear before the Appellate Court on or before 03.12.2025.

8. On the request of counsel for the parties, the personal appearance of both parties is hereby exempted, subject to the condition that their respective counsel shall appear and duly represent them. However, in the event their counsel fails to appear, this order of exemption shall stand recalled automatically.

9. **Present petition stands disposed of.** All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

13.11.2025
Jyoti-II

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