



\$~13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 156/2025**

LAXMI CHAND TOMARAppellant

Through: Mr. M.P. Arora, Mr. Shiv
Kumar, Mr. Tarun Chadha
and Mr. Beer Singh,
Advocates.

versus

MAMATA RAUTHRespondent

Through: Mr. Avdesh Kumar Singh,
Mr. Col. Arunender
Thakur and Mr. Chandan
Kumar Jha, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

29.07.2025

%

1. The present appeal is filed under Section 419 of the Bharatiya Nyaya Suraksha Sanhita, 2023 ('**BNSS**') against the judgment dated 07.09.2022, passed by the learned Metropolitan Magistrate-08 ('**MM**'), NI Act, Dwarka Courts, New Delhi, whereby the respondent was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**') in CC No. 12410/2017.

2. At the outset, the learned counsel for the appellant states that in view of the judgment of the Hon'ble Apex Court in the case of *Celestium Financial v. A. Gnanasekaran* : 2025 SCC OnLine SC 1320, the appellant being a victim is entitled to file an appeal against the judgment of acquittal and is not required to seek leave to appeal. He submits that the present appeal be transferred to the learned Court of Sessions to be treated as an appeal.



3. The Hon'ble Apex Court in the recent decision in ***Celestium Financial v. A. Gnanasekaran*** (*supra*) has opined that a complainant who prefers a complaint under Section 138 of the NI Act is an aggrieved party who suffers economic loss due to the dishonour of cheque, and such a complainant qualifies as a victim within the meaning of Section 2(wa) of the Code of Criminal Procedure, 1973 ('CrPC'). Consequently, it was held that such a complainant is entitled to the benefit of the proviso of Section 372 of the CrPC (corresponding to Section 413 of the BNSS), enabling them to maintain an appeal against an order of acquittal without seeking leave to appeal under Section 378(4) of the CrPC.
4. The appellant was the complainant in the complaint preferred under Section 138 of the NI Act, and is thus entitled to maintain an appeal under Section 413 of the BNSS.
5. In terms of the *proviso* to Section 413 of the BNSS, an appeal by a victim against the judgment of acquittal passed by the learned MM will have to be heard by the learned Court of Sessions. If the appeal is continued before this Court, the parties will stand to lose a forum of challenge.
6. In view of the above, the present matter is disposed of with direction that the present appeal be treated as an appeal under the *proviso* to Section 413 of the BNSS.
7. The Registry is directed to transfer entire record of the case, including the requisitioned copy of TCR, to the concerned appellate Court of Sessions.
8. The order be communicated to the learned Principal District & Sessions Judge, South West, Dwarka Courts, Delhi for compliance and listing before the concerned Appellate Court on 28.08.2025.



9. The parties are directed to appear before the concerned Appellate Court on 28.08.2025.

AMIT MAHAJAN, J

JULY 29, 2025

DU