



\$~31 & 32

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

+ **CRL.L.P. 99/2022 & CRL.M.A. 4349/2022**

SH BIMAN MUKHERJEE

.....Petitioner

Through:

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Kiran Bairwa, APP
for the State

32

+ **CRL.L.P. 100/2022 & CRL.M.A. 4350/2022**

SH BIMAN MUKHERJEE

.....Petitioner

Through:

versus

THE STATE OF NCT OF

DELHI & ANR.

.....Respondents

Through: Ms. Kiran Bairwa, APP
for the State

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

19.08.2025

1. The present leave to appeals have been filed by the petitioner under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') against the judgment dated 20.12.2021, passed by the learned Metropolitan Magistrate ('MM'), Central District, Tis Hazari Courts, Delhi, whereby the Respondent No. 2 was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') in Ct Case Nos. 17450/2018 and 700/2019 respectively.

2. None appears either for the petitioner or Respondent No. 2.

3. The Hon'ble Apex Court in the recent judgment of ***Celestium Financial v. A. Gnanasekaran*** : 2025 SCC OnLine



SC 1320 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 CrPC. Consequently, it was held that such a complainant is entitled to the benefit of the proviso of Section 372 of the CrPC, 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 petitioner was the complainant in the complaints preferred under Section 138 of the NI Act, and is thus entitled to maintain an appeal under Section 372 of the CrPC.

5. In terms of the proviso to Section 372 of the CrPC, 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 petition is allowed to continue before this Court, the parties will stand to lose a forum of challenge.

6. In view of the above, the present matters are disposed of with direction that the present petitions be treated as appeals under the proviso to Section 372 of the CrPC and numbered accordingly.

7. The Registry is directed to transfer the entire record of the cases, including the copy of the Trial Court Records, to the concerned Appellate Court of Sessions.

8. The order be communicated to the learned Principal District & Sessions Judge, Central District, Tis Hazari Courts, Delhi, for compliance and listing before the concerned Appellate Court on 25.09.2025.

9. The parties are directed to appear before the concerned



Appellate Court on 25.09.2025.

10. Considering that the matters have been pending before this Court since the year 2022, the learned Sessions Court is requested to dispose of the matters expeditiously.

11. Copy of the order be also communicated to the counsels for the respective parties who represented them in the present case.

12. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

AUGUST 19, 2025

“SS”