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

+ **CRL.L.P. 97/2020**

S.C. LUTHRA

.....Petitioner

Through: Mr. Rajinder Pal Singh, Mr. Sahil Goel, Mr. Mohit Bindu, Mr. Aatish Goel, Mr. Kaartik S Rawat and Mr. Pratham.

versus

AJAY SHARMA

.....Respondent

Through: Mr. Krishan Kumar and Mr. Sumit, Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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06.08.2025

1. The present appeal under Section 378 of the Code of Criminal Procedure, 1973⁵ assails the judgment dated 28th September, 2019 passed by the Metropolitan Magistrate, North-West-03, Rohini Courts, in C.C. No. 5934/2016 titled as '**S.C. Luthra v. Ajay Sharma**', whereby the Respondent has been acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881⁶.

2. At the outset, counsel for the Appellant seeks transfer of the present petition to the Court of Sessions and be treated as an appeal, in light of the recent decision of the Supreme Court in **Celestium Financial v. A.**

⁵ "Cr.P.C."

⁶ "NI Act"



Gnanasekaran⁷.

3. In the said decision, the Supreme Court clarified the legal position regarding appeals against acquittals under Section 138 of NI Act and held that a complainant under Section 138, who suffers financial loss due to the dishonour of a cheque, qualifies as a ‘victim’ under Section 2(wa) of Cr.P.C. Therefore, the Court ruled that such a complainant is entitled to benefit from the proviso to Section 372 of the Cr.P.C., to prefer an appeal against acquittal without having the need to obtain leave under Section 378(4) of the Cr.P.C.

4. In light of the Supreme Court’s recent clarification of the legal position, it is now evident that the Appellant, being a complainant under Section 138 of NI Act, is entitled to file an appeal against the impugned judgment of acquittal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023⁸ (previously Section 372 of the Cr.P.C.) before the Sessions Court. If this Court were to proceed to hear and decide the appeal at this stage, it could deprive the parties of an available forum for further challenge.

5. In light of the above, it is deemed fit to direct that the present appeal be transferred to the concerned Appellate Court of Sessions and be considered as an appeal under the proviso to Section 413 of BNSS. Let the appeal be numbered accordingly.

6. The entire record of the present case, including the requisitioned copy of the Trial Court Record, is directed to be transferred to the concerned Appellate Court of Sessions.

7. Furthermore, considering that the appeal has been pending for a

⁷ 2025

⁸ “BNSS”



considerable time, the concerned Sessions Court is requested to dispose of the matter as expeditiously as possible.

8. Parties are directed to appear before the Appellate Court of Sessions on 20th August, 2025.

9. During the course of hearing, counsel for the Petitioner submits that the address of the respondent is not known to them. Counsel for the Respondent, who is present before the Court, submits that the respondent is residing at A-1/76, MIG Flats, Sector-3, Rohini, Delhi-110085.

10. A copy of the order be sent to the concerned Principal District and Sessions Judge for necessary information, compliance and for listing of the matter before the concerned Appellate Court on 20th August, 2025.

SANJEEV NARULA, J

AUGUST 6, 2025

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