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

+ CRL.L.P. 110/2022

SACHIN GARG

.....Petitioner

Through: None.

versus

ASHOK KUMAR

.....Respondent

Through: Mr. Pramod Kumar,
Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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30.07.2025

1. The present leave to appeal is filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') against the judgment dated 11.01.2022, passed by the learned Metropolitan Magistrate ('MM'), South District, Saket 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. 5495/2020.

2. None appears for the Petitioner.

3. Recently, the Hon'ble Apex Court in the case ***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 complaint 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 matter is disposed of with direction that the present petition be treated as an appeal under the proviso to Section 372 of the CrPC and numbered accordingly.

7. The Registry is directed to transfer the entire record of the case to the concerned appellate Court of Sessions.

8. The order be communicated to the concerned Principal District & Sessions Judge for compliance and listing before the concerned Appellate Court on 03.09.2025.

9. The parties are directed to appear before the concerned Appellate Court on 03.09.2025.

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

11. Copy of the order be also communicated to counsel for the petitioner who represents him in the present case.

AMIT MAHAJAN, J

JULY 30, 2025

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