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

+ **CRL.L.P. 132/2020**

NITIN

.....Petitioner

Through: Mr. Jitender Khurana, Advocate with
Petitioner (in-Person).

versus

DEEPAK @ DEEPAK MEHTA

.....Respondent

Through: Mr. Jitender Singh, Advocate with
Respondent (in-Person).

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **19.08.2025**

1. The Appellant, who is also the complainant, has filed the present leave to appeal under Section 378(4) read with Section 482 of the Code of Criminal Procedure, 1973¹ assails the judgment dated 8th November, 2019 passed by the Metropolitan Magistrate, East District, Karkardooma Courts, Delhi in CIS No. 45158/16 titled as '*Nitin v. Deepak*', whereby the Respondent has been acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881².

2. At the outset, counsel for the Appellant seeks transfer of the present petition to the Court of Sessions along with a direction that the same be treated as an appeal, in light of the recent decision of the Supreme Court in

¹ "CrPC"

² "NI Act"



***Celestium Financial v. A. Gnanasekaran*³.**

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 CrPC. Therefore, the Court ruled that such a complainant is entitled to benefit from the proviso to Section 372 of the CrPC, to prefer an appeal against acquittal without having the need to obtain leave under Section 378(4) of CrPC.

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 BNSS (corresponding to Section 372 of CrPC) before the Sessions Court, without having to seek any leave to appeal from this Court. At this stage, if this Court were to proceed to hear the present matter, allow the leave to appeal and decide the appeal it could deprive the parties of an available forum for further challenge.

5. In light of the above, it is deemed fit to dispose of the present matter with the direction that the present petition 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 before the concerned Appellate Court of Sessions.

6. The entire record of the present case is directed to be transferred to the concerned Appellate Court of Sessions.

7. Furthermore, considering that the appeal has been pending for a considerable time, the concerned Sessions Court is requested to dispose of

³ 2025 SCC OnLine SC 1320.



the matter as expeditiously as possible.

8. Parties are directed to appear before the Appellate Court of Sessions on 1st September, 2025.

9. 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 1st September, 2025.

SANJEEV NARULA, J

AUGUST 19, 2025

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