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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.A. 348/2025

RAM SEVAK KAMAT

.....Appellant

Through: Mr. Sundeshwar Lal,
Advocate along with
appellant in person.

versus

MUNESH KUMAR

.....Respondent

Through: Mr. Ramesh Nautiyal,
Advocate along with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

31.07.2025

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1. The present appeal is filed against the judgment dated 05.03.2022, passed by the learned Metropolitan Magistrate ('MM'), New Delhi District, Patiala House 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. 21846/2016.
2. It is pertinent to note that on the last date of hearing, the leave to appeal was granted and the application filed by the appellant under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') was allowed. Consequently, the matter was renumbered as an appeal.
3. 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 while the leave has been



granted in the present case, the appeal be transferred to the learned Court of Sessions for adjudication.

4. 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 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.

5. 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 372 of the CrPC.

6. 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 Magistrate will have to be heard by the learned Court of Sessions. If the present appeal is continued before this Court, the parties will stand to lose a forum of challenge.

7. 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 372 of the CrPC and numbered accordingly.

8. The Registry is directed to transfer entire record of the case, including the LCR, to the concerned appellate Court of Sessions.

9. The order be communicated to the concerned Principal District & Sessions Judge for compliance and listing before the concerned Appellate Court on 26.08.2025.

10. The parties are directed to appear before the concerned



Appellate Court on 26.08.2025

11. 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.

AMIT MAHAJAN, J

JULY 31, 2025

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