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

+ **CRL.L.P. 228/2022**

M/S MAHINDRA BUILDING MATERIAL
SUPPLIER

.....Petitioner

Through: Mr. P.K. Bhardwaj, Adv.
(through VC)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State
Mr. Pankaj Jaiswal, Adv.
(through VC)

+ **CRL.L.P. 229/2022**

MAHENDER KUMAR SHARMA

.....Petitioner

Through: Mr. P.K. Bhardwaj, Adv.
(through VC)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State
Mr. Pankaj Jaiswal, Adv.
(through VC)

+ **CRL.L.P. 230/2022**

M/S MAHINDRA BUILDING MATERIAL
SUPPLIER

.....Petitioner

Through: Mr. P.K. Bhardwaj, Adv.
(through VC)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State
Mr. Pankaj Jaiswal, Adv.



(through VC)



+ **CRL.L.P. 233/2022**

MAHENDER KUMAR SHARMAPetitioner

Through: Mr. P.K. Bhardwaj, Adv.
(through VC)

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Sunil Kumar Gautam,
APP for the State
Mr. Pankaj Jaiswal, Adv.
(through VC)

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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15.07.2025

1. The present leave to appeals are filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') against the judgement dated 18.12.2021, passed by the learned Metropolitan Magistrate ('MM'), South-West District, Dwarka Courts, New Delhi, whereby Respondent No. 2 was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') in Complaint Case Nos. 5003004/2016, 5003009/2016, 5003006/2016 and 5003008/2016 respectively.

2. At the outset, the learned counsel for the petitioners 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 petitioners being the victims are entitled to file appeals against the judgment of acquittal and are not required to seek leave to appeal. He submits that the present petitions be transferred to the learned Court of Sessions to be treated as appeals.

3. The Hon'ble Apex Court in the recent decision in



Celestium Financial v. A. Chandrasekaran (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 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 petitioners were the complainants in the complaints preferred under Section 138 of the NI Act, thus are entitled to maintain an appeal under Section 372 of the CrPC against the judgments of acquittal.

5. In terms of 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 petitions are 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 proviso to Section 372 of the CrPC and numbered accordingly.

7. The Registry is directed to transfer entire record of the cases to the concerned Appellate Court of Sessions.

8. The order be communicated to the learned Principal District & Sessions Judge for compliance and listing before the concerned Appellate Court on 25.08.2025.

9. The parties are directed to appear before the learned Appellate Court on 25.08.2025.

10. Considering that the matters have been pending before this



Court since the year 2022 to the learned Sessions Court is requested to dispose of the matters expeditiously.

AMIT MAHAJAN, J

JULY 15, 2025