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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.L.P. 344/2023 and CRL.M.A. 18353/2023
M/S INTEC CAPITAL LTD.Petitioner
Through: Mr.Divyansh Arora, Advocate

versus

M/S AGM LOGISTICS SERVICESRespondent
Through: None

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
08.12.2025

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1. By way of the present petition, the petitioner/complainant is seeking leave to appeal against the order dated 16.05.2023 passed by learned JMFC, NI Act, Saket Courts, New Delhi in the case bearing CC No. 628822/2016 titled as 'M/s Intec Capital Ltd. v. Altaf Khan & Anr.', vide which the petitioner/complainant's case stands compounded and the respondent stands acquitted.
2. The present matter arises out of complaint made under Section 25 of the Payment and Settlement Systems Act, 2007 ("PSS Act"). Section 25(5) of the said Act specifically provides that the provisions of Chapter XVII of Negotiable Instruments Act, 1881 shall apply to the dishonour of electronic funds transfer, to the extent the circumstances admit.
3. The attention of this Court is drawn to the recent decision of the Supreme Court in Celestium Financial vs A. Gnanasekaran etc.,¹ wherein, it has been held that the complainant who suffers financial loss and injury on

¹ 2025 SCC OnLine SC 1320



account of the dishonour of cheque, would qualify as a victim within the meaning of Section 2 (wa) Cr.P.C. It was further held that such a complainant could maintain an appeal under proviso to Section 372 CrPC in his own right, without complying with the rigours of Section 378(4) CrPC.

4. Normally, a complainant who seeks to challenge a judgement of acquittal has to meet the rigours of Section 378(4) Cr.P.C. The aggrieved complainant has to apply before the High Court for a special leave to appeal. If the High Court grants it, the complainant can present such appeal before the High Court.

6. However, in lieu of Section 25(5), if the complainant under the PSS Act is also held to be a 'victim', then all the rights available to the victim by the Code would also be extended to such complainant, including a separate right to appeal provided under the proviso to Section 372 Cr.P.C. The proviso reads as follows:-

“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

A careful reading of the above proviso would show that the victim can appeal from three types of orders- a) an order of acquittal, b) a conviction for a lesser offence or c) imposing inadequate compensation. It also states that such appeal shall lie to the court to which an appeal ordinarily lies against the order of conviction of such court. Section 372 is a self-contained and independent provision which is not to be read conjointly with any other provision, including Section 378 Cr.P.C.



7. Effect of the proviso of Section 372 CrPC is twofold. Firstly, it provides the victim an individual right to appeal against an order of acquittal which is distinct from the right provided to the complainant under Section 378(4) Cr.P.C as in this case, no special leave to appeal needs to be obtained from the High Court. Secondly, it provides an additional forum of challenge as in case of an appeal preferred by the victim under Section 372 CrPC, the same lies before the Court to which an appeal ordinarily lies against the order of conviction of such Court. Section 28 of the PSS Act states that no offence punishable under the said Act shall be tried by a Court lower than that of Judicial Magistrate of First Class or Metropolitan Magistrate. An appeal against conviction, and thus an appeal preferred by the victim, would lie before the Sessions Court.

8. In light of the Supreme Court's recent clarification of the legal position, it is now evident that the petitioner, being the complainant is also entitled to file an appeal against the impugned judgment of acquittal before the Sessions Court, since he is considered to be a victim. If this Court were to proceed to hear and decide the appeal at this stage, it could deprive the parties of an available forum i.e., this Court, for further challenge.

9. In view of the above, learned counsel for the petitioner, on instructions, seeks leave to withdraw this petition, with liberty to approach the concerned Sessions Court.

10. Considering the above noted legal position, the present petition is dismissed as withdrawn with the direction that the accompanying appeal be transferred to the concerned Appellate Court of Sessions and be considered as an appeal under the proviso to Section 413 of BNSS (formerly Section 372 of CrPC) and numbered accordingly.



11. The Registry is directed to transfer the entire record of the case including the requisitioned copies of TCR, to the concerned Principal District & Sessions Judge, who may assign it to the concerned Appellate Court/ learned ASJ having the jurisdiction and for which purpose, it would be listed before the concerned Principal District & Sessions Judge, at the first instance, on 12.01.2026 for directions.

12. In case there are applications pending for Condonation of Delay, the same be also transferred to be considered by the learned ASJ in accordance with law.

13. Considering that the matter has been pending for considerable time, learned Appellate Court is requested to make an endeavour to dispose the matter as expeditiously as possible.

14. The earlier date fixed, if any, before this Court stands cancelled.

15. It is made clear that this Court has not made any observations as to the merits of the case and all rights and contentions of the parties are left open to be agitated before the Court concerned.

16. A copy of the order be sent to the concerned Principal District and Sessions Judge for necessary information and compliance.

MANOJ KUMAR OHRI, J

DECEMBER 8, 2025/

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