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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.A. 993/2025**

M/S WIN MEDICARE PVT. LTD.Appellant

Through: Mr. Piyush Sharma, Ms.
Shweta Singh, Mr.
Armaan Verma & Mr.
Ramit Jain, Advs.

versus

M/S YASH PHARMARespondent

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
17.07.2025

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1. The present appeal is filed against the judgment dated 05.05.2024, passed by the learned Judicial Magistrate First Class ('JMFC'), 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 Ct Case 8911/2018.

2. 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 Code of Criminal Procedure, 1973 ('CrPC'). Consequently, it was held that such a complainant is entitled to



the benefit of the proviso of Section 372 of the CrPC [corresponding to Section 413 of the Bharatiya Nyaya Suraksha Sanhita, 2023 ('BNSS')], enabling them to maintain an appeal against an order of acquittal without seeking leave to appeal under Section 378(4) of the CrPC.

3. 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 413 of the BNSS.

4. However, in terms of the proviso to Section 413 of the BNSS, 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 appeal is allowed to continue before this Court, the parties will stand to lose a forum of challenge.

5. In view of the above, the present matter is disposed of with direction that the present appeal be transferred to the learned Court of Sessions for adjudication.

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

7. The order be communicated to the learned Principal District & Sessions Judge, New Delhi District, Patiala House Courts, New Delhi for compliance and listing before the concerned Appellate Court on 29.08.2025.

8. The parties are directed to appear before the concerned Appellate Court on 29.08.2025.

AMIT MAHAJAN, J

JULY 17, 2025/"SK"