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

+ CRL.L.P. 370/2025 & CRL.M.A. 20416/2025

VIG K FINANCE PVT. LTD

.....Petitioner

Through: Mr. Rajive R. Raj, Advocate.

versus

SHERRY KAPUR

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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28.07.2025

1. The Appellant, i.e., the Complainant, has filed the present leave to appeal under Section 419(4) read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Sections 378(4) and 482 of the Code of Criminal Procedure², respectively) assailing the judgment of acquittal dated 28th March, 2025 passed by the Judicial Magistrate First Class, (NI Act-04), South, Saket Courts, New Delhi in Complaint Case No. 35204/2019 pertaining to an offence under Section 138 of the Negotiable Instruments Act, 1881³.

2. In a recent judgment in *Celestium Financial v. A. Gnanasekaran Etc.*,⁴ the Supreme Court has held that in cases involving an offence under Section 138 of the NI Act, the complainant qualifies as a “victim” as defined

¹ “BNSS”

² “Cr.P.C.”

³ “NI Act”

⁴ 2025 SCC OnLine SC 1320.



under Section 2(wa) of Cr.P.C. Therefore, the complainant may proceed to prefer an appeal under the proviso to Section 372 of Cr.P.C. and need not invoke Section 378(4) of Cr.P.C.

3. In light of the afore-noted judgment, counsel for the Appellant seeks leave to withdraw the present petition, with liberty to file an appeal under the proviso to Section 372 of CrPC.

4. Considering the above, the following directions are issued:

4.1. Leave and liberty granted. The Appellant is permitted to file an appeal under the proviso to Section 372 of CrPC against the judgment of acquittal dated 28th March, 2025 in light of the decision of the Supreme Court in ***Celestium Financial***.

4.2. It is directed that the time period from the date of the initial filing of this petition with the Registry of this Court till the expiry of ten days from today, shall be excluded for the purpose of computing the period of delay before the Sessions Court. The Appellant shall be at liberty to file an application for condonation of delay, if any, which shall then be considered on its own merits and in accordance with law.

5. In view of the above, the present appeal is disposed of along with the pending application.

6. The Court has not commented on the merits of the case. All rights and contentions of the parties are left open.

SANJEEV NARULA, J

JULY 28, 2025

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