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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.L.P. 603/2022

SHEFALI KHULLER AHUJA

.....Petitioner

Through: Ms. Alya Veronica,
Advocate (through VC).

versus

THE STATE NCT OF DELHI

AND ANR.

.....Respondents

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

Mr. Kshitiz Mahipal,
Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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17.07.2025

1. The present leave to appeal is filed against the order dated 01.09.2022, passed by the learned Metropolitan Magistrate ('MM'), South East District, Saket Courts, New Delhi, whereby Respondent no.2 was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') in CC No. 38752/2019.

2. The learned proxy counsel for the petitioner submits that she is not aware of the facts of the case.

3. It is seen that the present case was earlier numbered as Crl.M.C. No. 6025/2022, whereafter, by order dated 24.11.2022, the predecessor Bench of this Court had directed that the matter be renumbered as Crl.L.P. instead.

4. 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, 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 petitioner 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 MM will have to be heard by the learned Court of Sessions. If the petition is allowed to continue 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 petition be treated as an appeal under the *proviso* to Section 372 of the CrPC and numbered accordingly.

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

9. The order be communicated to the learned Principal District & Sessions Judge, South East District, Saket Courts, New Delhi for compliance and listing before the concerned Appellate Court on 29.08.2025.

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

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 17, 2025/DV