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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.L.P. 387/2025 & CRL.M.A. 21406/2025 (*Delay of 376 Days in Filing Appeal*)

M/S INDOTEX

.....Petitioner

Through: Mr. Anubhav Tyagi, Mr. Sahil Ahuja,
Mr. Kuldeep Jauhari, Ms. Lipi Garg,
Ms. Palak Garg, Advocates

versus

M/S MAHALAXMI ENTERPRISES

.....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
25.07.2025

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1. The Appellant has filed the instant leave to appeal under Section 419(4) read with 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (corresponding to Sections 378(4) and 482 of the Code of Criminal Procedure²) against judgment of acquittal dated 20th April, 2024, passed by the Court of Metropolitan Magistrate (NI Act)-03, West District, Tis Hazari Courts, New Delhi in Complaint Case No. 16400/2016 pertaining to an offence under Section 138 of the Negotiable Instruments Act, 1881³.
2. In a recent judgment, the Supreme Court in *Celestium Financial v. A. Gnanasekaran Etc.*⁴ has held that in cases involving an offence under

¹ "BNSS"

² "CrPC"

³ "NI Act"

⁴ 2025 SCC OnLine SC 1320.



Section 138 of the NI Act, the complainant is akin to a “victim” who may proceed under the proviso to Section 372 of CrPC and need not invoke Section 378(4) of CrPC.

3. In light of the aforementioned 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. It is also noticed that the Appellant had earlier filed an appeal under the proviso to Section 372 of CrPC before the Sessions Court on 18th July, 2024 which was then eventually decided on 29th March, 2025 holding the appeal to be non-maintainable as the other remedy against the judgment of acquittal is to file an application for grant of Special Leave to Appeal before the High Court. However, this view is no longer correct in view of the decision in ***Celestium Financial***. Nonetheless, there is a delay of 376 days in filing the present appeal.

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

5.1. 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 20th April, 2024, in light of the decision of the Supreme Court in ***Celestium Financial***.

5.2. Since the earlier appeal before the Sessions Court was filed within a period of limitation, the period from 18th July, 2024 till the date of decision 29th March, 2025, the period spent in prosecuting the present appeal and for a period of one week from today, shall be excluded for the purpose of computing the period of delay. The Appellant may file an application for condonation of delay, if any, which shall then be considered on its own merits and in accordance with law, keeping note of the directions in this



order.

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

7. 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 25, 2025/ab