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

+ **CRL.A. 1051/2023**

SH. MANOJ SHARMA

.....Appellant

Through: Mr. Mridul Jain, Adv.

versus

CITIZEN SEHKARI AVAS SAMITI LTD. & ANR

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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14.08.2025

1. The present appeal is filed by the appellant under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') against the judgment dated 26.11.2018, passed by the learned Metropolitan Magistrate ('MM'), Shahdara District, Karkardooma Courts, Delhi, whereby the respondents were acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') in complaint case number CC No.7365/2016.

2. This Court on 07.05.2025 had heard the arguments advanced by the parties and reserved the matter for orders.

3. The Hon'ble Apex Court in the recent judgment of ***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 CrPC. Consequently, it was held that such a

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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.

4. 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 372 of the CrPC.

5. 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.

6. In view of the aforesaid judgment, this Court had listed the matter for clarification to note if the parties consent to transfer the present appeal to the learned Court of Sessions, since, if the appeal is allowed to continue before this Court, the parties will stand to lose a forum of challenge.

7. At the outset, the learned counsel for the appellant states that in view of the judgment of the Hon'ble Apex Court in the case of ***Celestium Financial v. A. Gnanasekaran*** (*supra*) the appellant being a victim is entitled to file an appeal against the judgment of acquittal. He submits that the present matter be transferred to the learned Court of Sessions to be treated as an appeal.

8. In view of the above, the present matter is disposed of with direction that the present appeal be treated as an appeal under the proviso to Section 372 of the CrPC and numbered accordingly.

9. The Registry is directed to transfer entire record of the case, including the requisitioned copy of Trial Court Record, to



the concerned Appellate Court of Sessions.

10. The order be communicated to the learned Principal District & Sessions Judge for compliance and listing before the concerned Appellate Court on 27.09.2025.

11. The parties are directed to appear before the concerned Appellate Court on 27.09.2025.

12. Considering that the matter has been pending before this Court since the year 2023, the learned Sessions Court is requested to dispose of the matter expeditiously.

AMIT MAHAJAN, J

AUGUST 14, 2025

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