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

+ CRL.L.P. 125/2024 and CRL.M.A. 6727/2024

PUNEET YADAV

.....Petitioner

Through: None.

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Shubhi Gupta, APP for State  
Mr. Roshan Lal Saini & Ms. Kavita Saini,  
Advocates for respondent no. 2

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**02.12.2025**

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1. None for the petitioner.
2. The present petition has been filed under Section 378(4) Cr.P.C. by the petitioner/complainant seeking leave to appeal against the order dated 23.08.2018 passed by learned JMFC-02, North District, Rohini Courts, Delhi in the case bearing **CC No. 11266/2016** titled as "Puneet Yadav Vs. Balwant Singh Negi", vide which the petitioner/complainant's case was dismissed for non-prosecution, and consequently, in view of Section 256 of the Cr.P.C., the respondents were acquitted of the offence under Section 138 NI Act.
3. Learned counsel for respondent no. 2 submits that in the present case, the complaint was dismissed in default by the learned JMFC, whereafter the revision filed by the complainant before the Sessions Court was also



dismissed as not maintainable.

4. The attention of this Court is drawn to the recent decision of the Supreme Court in Celestium Financial Vs. A. Gnanasekaran etc., reported as **2025 SCC OnLine SC 1320**, wherein it has been held that the complainant under Section 138 NI Act, who suffers financial loss and injury on account of the dishonour of cheque, would qualify as a victim within the meaning of Section 2 (wa) Cr.P.C.

It was further held that such a complainant could maintain an appeal under proviso to Section 372 Cr.P.C. in his own right, without complying with the rigours of Section 378(4) Cr.P.C. The relevant portion is extracted hereunder:-

“7.7 In the context of offences under the Act, particularly under Section 138 of the said Act, the complainant is clearly the aggrieved party who has suffered economic loss and injury due to the default in payment by the accused owing to the dishonour of the cheque which is deemed to be an offence under that provision. In such circumstances, **it would be just, reasonable and in consonance with the spirit of the CrPC to hold that the complainant under the Act also qualifies as a victim within the meaning of Section 2(wa) of the CrPC. Consequently, such a complainant ought to be extended the benefit of the proviso to Section 372, thereby enabling him to maintain an appeal against an order of acquittal in his own right without having to seek special leave under Section 378(4) of the CrPC.**

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**7.9 In this context, we wish to state that the proviso to Section 372 does not make a distinction between an accused who is charged of an offence under the penal law or a person who is deemed to have committed an offence under Section 138 of the Act.** Symmetrical to a victim of an offence, a victim of a deemed offence under Section 138 of the Act also has the right to prefer an appeal against any order passed by the court acquitting the accused or convicting for a lesser offence or imposing an inadequate compensation. When viewed from the perspective of an offence under any penal law or a deemed offence under Section 138 of the Act, the right to file an appeal is not



circumscribed by any condition as such, so long as the appeal can be premised in accordance with proviso to Section 372 which is the right to file an appeal by a victim, provided the circumstances which enable such a victim to file an appeal are met. **The complainant under Section 138 is the victim who must also have the right to prefer an appeal under the said provision. Merely because the proceeding under Section 138 of the Act commences with the filing of a complaint under Section 200 of the CrPC by a complainant, he does not cease to be a victim inasmuch as it is only a victim of a dishonour of cheque who can file a complaint. Thus, under Section 138 of the Act both the complainant as well as the victim are one and the same person.”**

5. Normally, a complainant who seeks to challenge a judgment of acquittal has to meet the rigours of Section 378(4) Cr.P.C. The aggrieved complainant has to apply before the High Court for a special leave to appeal. If the High Court grants it, the complainant can present such appeal before the High Court.

6. However, if the complainant under the NI Act is also held to be a “victim”, then all the rights made available to a victim by the Cr.P.C. would also be extended to such complainant, including a separate right to appeal provided under the proviso to Section 372 Cr.P.C. The proviso reads as follows:-

*“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”*

A careful reading of the above proviso would show that the victim can appeal from three types of orders- (a) an order of acquittal; (b) an order of conviction for a lesser offence; or (c) an order imposing inadequate compensation. It also states that such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.



Section 372 is a self-contained and independent provision which is not to be read conjointly with any other provision, including Section 378 Cr.P.C.

7. The effect of the proviso to Section 372 Cr.P.C. is twofold. Firstly, it provides the victim an individual right to appeal against an order of acquittal which is distinct from the right provided to the complainant under Section 378(4) Cr.P.C., as in this case no special leave to appeal needs to be obtained from the High Court. Secondly, it provides an additional forum of challenge as in the case of an appeal preferred by the victim under Section 372 Cr.P.C., the same lies before the Court to which an appeal ordinarily lies against the order of conviction of such Court. Section 143 of the NI Act states that all offences under Chapter XVII of the Act, including an offence under Section 138 shall be tried by a Judicial Magistrate of First Class or by a Metropolitan Magistrate. An appeal against conviction, and thus an appeal preferred by the victim, would lie before the Sessions Court.

8. In light of the Supreme Court's recent clarification of the legal position, it is now evident that the petitioner, being the complainant under Section 138 of NI Act, is also entitled to file an appeal against the impugned judgment of acquittal before the Sessions Court, since he is considered to be a victim. If this Court were to proceed to hear and decide the appeal at this stage, it could deprive the parties of an available forum i.e., this Court, for further challenge.

9. Co-ordinate Benches of this Court in Yogesh Kataria Vs. State (Govt of NCT of Delhi) & Anr.<sup>1</sup>, Abdul Malik Vs. State (Govt of NCT of Delhi) & Anr.<sup>2</sup>, Promila Lekhi Vs. Safe Hands Chits Pvt. Ltd. & Anr.<sup>3</sup>, Shri Ujjawal

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<sup>1</sup> decided on 16.07.2025 in CRL.LP. 367/2025

<sup>2</sup> decided on 22.07.2025 in CRL.LP. 378/2025



Arora Vs. State and Ors.<sup>4</sup>, taking note of the decision in Celestium Financial (supra), have allowed the withdrawal of leave petitions filed before this Court with liberty to the petitioners/complainants to approach the concerned Sessions Court.

10. Similarly, the High Court of Bombay in Gunjan w/o Alok Khandelwal Vs. Parvaiz Hussain<sup>5</sup> and Dnyaneshwar Dinkar Badve Vs. The State of Maharashtra & Anr.<sup>6</sup>; the High Court of Karnataka in Sidagondappa Vs. Shafi Ahammad<sup>7</sup> and Sri T H Lenkappa Vs. Sri Sanjay<sup>8</sup>; the High Court of Chhattisgarh in Nemnath Yogi Vs. Yashwant Chandravanshi<sup>9</sup>, Neelam Sahu Vs. Narad Nagwanshi<sup>10</sup>, and Smt. Kirti Kurian Vs. Ajay Singh; the High Court of Madhya Pradesh in Urmila Madrah Vs. Samarpan Jain<sup>11</sup>; the High Court of Gujarat in Baroda Cricket Association Vs. State of Gujarat & Anr.<sup>12</sup>; the Gauhati High Court in Bhargab Kaushik Vs. Dilip Kumar Bhagabati<sup>13</sup>; the Allahabad High Court in Indian Farm Forestry Development Cooperative Ltd Vs. Mangala Trading Company<sup>14</sup>; and the Himachal Pradesh High Court in Roshan Chauhan Vs. Mohan Lal<sup>15</sup> have also relied on Celestium Financial (supra) to relegate the parties to contest their case before the Sessions Court.

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<sup>3</sup> decided on 14.07.2025 in CRL.LP. 360/2025

<sup>4</sup> decided on 15.07.2025 in CRL.LP. 364/2025

<sup>5</sup> decided on 21.07.2025 in Criminal Application (APPA) No. 150/2023 in Criminal Appeal ST. No. 10465/2022

<sup>6</sup> decided on 24.07.2025 in Criminal Writ Petition No. 793/2025

<sup>7</sup> decided on 31.07.2025 in CRL.A No. 200021 of 2018

<sup>8</sup> decided on 23.07.2025 in CRL.A No. 146 of 2015

<sup>9</sup> decided on 07.08.2025 in CRMP No. 579 of 2021

<sup>10</sup> decided on 16.07.2025 in ACQA No. 340 of 2018

<sup>11</sup> decided on 21.07.2025 in CRL.A. No. 11872 of 2022

<sup>12</sup> decided on 17.06.2025 in R/CR.MA/3473/2025

<sup>13</sup> decided on 04.08.2025 in CRL.L.P./34/2025

<sup>14</sup> decided on 28.07.2025 in APPLICATION U/S 378 No. - 56 of 2025

<sup>15</sup> decided on 21.07.2025 in Cr. MP(M) No. 1629 of 2025



11. Despite efforts, the petitioner has remained unserved.
12. Considering the above noted legal position, the present petition is dismissed with the direction that the accompanying appeal be transferred to the concerned Appellate Court of Sessions and be considered as an appeal under the proviso to Section 413 of BNSS (formerly Section 372 of Cr.P.C.) and numbered accordingly.
13. The Registry is directed to transfer the entire record of the case, including the requisitioned copies of the Trial Court and Revision Court records, if available, to the concerned Principal District & Sessions Judge, who may assign it to the concerned Appellate Court/learned ASJ having jurisdiction. For the said purpose, the matter would be listed before the concerned Principal District & Sessions Judge at the first instance on 18.12.2025, for directions.
14. In case there are applications pending for condonation of delay, the same shall also be transferred to be considered by the learned ASJ in accordance with the law.
15. The earlier date fixed before this Court, if any, stands cancelled.
16. It is made clear that this Court has not made any observations as to the merits of the case and all rights and contentions of the parties are left open to be agitated before the Court concerned.
17. A copy of the order be sent to the concerned Principal District and Sessions Judge for necessary information and compliance.

**MANOJ KUMAR OHRI, J**

**December 02, 2025/nb**