



\$~15

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

+ **CRL.L.P. 336/2018**

SURENDER KUMAR

.....Petitioner

Through: None.

versus

DALIP KUMAR

.....Respondent

Through: Mr. Arun Kumar Tripathi,
Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **21.07.2025**

CRL.M.A. 9482/2018 (delay of 30 days in re-filing the petition)

1. For the reasons stated in the application, the same is allowed and the delay of 30 days in filing the present appeal is condoned.
2. The application stands disposed of.

CRL.L.P. 336/2018

3. The present leave to appeal is filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') against the judgment dated 29.01.2018, passed by the learned Metropolitan Magistrate ('MM'), East, Karkardooma Courts, Delhi, whereby the respondent was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('NI Act') in CC No. 48392/2016.
4. None appears for the petitioner.
5. 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 loss 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 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.

6. 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.

7. 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.

8. 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.

9. The Registry is directed to transfer the entire record of the case, including the requisitioned copy of the TCR, to the concerned appellate Court of Sessions.

10. The order be communicated to the concerned Principal District & Sessions Judge for compliance and listing before the concerned Appellate Court on 09.09.2025.

11. The parties are directed to appear before the concerned Appellate Court on 09.09.2025.

12. Considering that the matter has been pending before this Court since the year 2018, the learned Sessions Court is requested to dispose of the matter expeditiously.



13. Copy of the order be also communicated to the learned counsel who represented the petitioner in the present case.

AMIT MAHAJAN, J

JULY 21, 2025
“SK”