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

+ CRL.L.P. 67/2025, CRL.M.A. 3016-3017/2025

JAIDEV

.....Petitioner

Through: Mr. Kartik Gaur, Advocate

versus

THE STATE GOVT. OF NCT, DELHI & ANR.Respondents

Through: Mr. Hemant Mehla, APP for the State
with SI Sachin Panwar, PS Fatehpur
Beri

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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22.07.2025

1. The Appellant, who is also the complainant in the present case, 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 March, 2024, passed by the Court of MM (NI Act)-06, South District, Saket Courts, New Delhi in Complaint Case No. 9247/2019 titled *Jaidev v. Sandeep*, pertaining to an offence under Section 138 of the Negotiable Instruments Act, 1881³.

2. However, recently, the Supreme Court in *Celestium Financial v. A. Gnanasekaran Etc.*⁴ has held that in cases involving an offence under 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

¹ "BNSS"

² "CrPC"

³ "NI Act"



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. It is further prayed that the period spent in prosecuting the present petition be excluded for the purpose of computing the period of limitation.

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

4.1. 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 March, 2024, in light of the decision of the Supreme Court in *Celestium Financial* (supra).

4.2. Although there has been a delay in filing and re-filing the present petition, the period from the date of its initial filing with the Registry of this Court until the date of listing of the present matter, and for one week from today, shall be excluded for the purpose of computing the period of delay. The Appellant shall be at liberty to pursue the remedy as noted above and may file an application for condonation of delay, if any, which shall then be considered on its own merits and in accordance with law.

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

6. 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 22, 2025/ab

⁴ 2025 SCC OnLine SC 1320.