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

\+ CRL.L.P. 703/2018 & CRL.M.A. 34949/2018

M/S. M.S. FROZEN FOOD CARRIERS .....Petitioner

Through: Mr. Harshit Jain, Advocate

versus

GOEL FOODS WORLD PVT. LTD. .....Respondent

Through: None.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 18.08.2025

1. The present leave to appeal is filed under Section 378 of the Code of Criminal Procedure, 1973 ('**CrPC**') against the judgment dated 18.07.2018, passed by the learned Metropolitan Magistrate-02 ('**MM**'), West, Tis Hazari Courts, Delhi whereby the respondent was acquitted of the offence under Section 138 of the Negotiable Instruments Act, 1881 ('**NI Act**') in CC No. 190/2017.

2. At the outset, the learned counsel for the petitioner states that in view of the judgment of the Hon'ble Apex Court in the case of ***Celestium Financial v. A. Gnanasekaran*** **: 2025 SCC OnLine SC 1320**, the petitioner being a victim is entitled to file an appeal against the judgment of acquittal and is not required to seek leave to appeal. He submits that the present petition be transferred to the learned Court of Sessions to be treated as an appeal.

3. The Hon'ble Apex Court in the recent decision in ***Celestium Financial v. A. Gnanasekaran*** *(supra)* has opined

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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 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 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.

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. If the petition is allowed to continue before this Court, the parties will stand to lose a forum of challenge.

6. 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.

7. The Registry is directed to transfer entire record of the case to the concerned appellate Court of Sessions.

8. The order be communicated to the concerned Principal District and Sessions Judge for compliance and listing before the concerned Appellate Court on 24.09.2025.

9. The parties are directed to appear before the concerned Appellate Court on 24.09.2025.

10. Considering that the matter has been pending before this

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Court since the year 2018, the learned Sessions Court is requested to dispose of the matter expeditiously.

11. Copy of the order be also communicated to the learned counsel who represent the respondent in the present case.

AMIT MAHAJAN, J

AUGUST 18, 2025
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