HC-KAR

NC: 2026:KHC:62208
CRL.A No. 1465 of 2016

CNR: KAHC010388322016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1465 OF 2016 (A)

BETWEEN:

SOMASHEKARA
S/O LATE N C JAVARAPPA
AGED ABOUT 49 YEARS
R/A FRONT OF GOVERNMENT HIGH SCHOOL
RANGANATHA BADAVANE
HUNSUR TOWN
HUNSUR
MYSORE DISTRICT-571301

...APPELLANT

(BY SRI. K A CHANDRASHEKARA., ADVOCATE)

AND:

CHIKKEGOWDA
S/O RAMAKRISHNA
AGED ABOUT 30 YEARS
R/A RAJEGOWDANAHUNDI VILLAGE
ANNUR POST, H D KOTE TALUK
MYSORE DISTRICT-571301

...RESPONDENT

(RESPONDENT SERVED AND UNREPRESENTED)

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

THIS CRL.A. IS FILED U/S.378(4) CR.P.C BY THE ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND ORDER DATED 14.07.2016 PASSED BY THE PRL. SR. C.J. AND J.M.F.C., HUNSUR IN C.C.NO.326/2012 -ACQUITTING THE

RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S 138 OF N.I.ACT.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

Learned counsel for the appellant is present and has filed a memo seeking to transfer the case to the concerned Court. The memo reads as under:

> *"The appellant in the above appeal submits that, the above appeal was preferred against the judgment and order of acquittal passed by the Hon'ble trial court for the offence punishable under section 138 of NI Act. Now, in view of the judgment of the Apex Court reported in CELESTIUM FINANCIAL Vs. A. GNANASEKARAN ETC. reported in 2025 SCC Online SC 1320, suitable orders may be passed transferring the above appeal to concerned appellate court of sessions, to meet the ends of justice."*

2. This appeal is preferred against the Judgment of acquittal dated 14.07.2016 passed in CC No.326/2012 by the Principal Senior Civil Judge and JMFC, Hunsur, Mysuru District.

3. The Hon'ble Supreme Court in the case of CELESTIUM FINANCIAL v. A GNANASEKARAN ETC. reported in 2025 SCC ONLINE SC 1320, has held victim of an offence has

the right to prefer an appeal under proviso to Section 372 of Cr.P.C., irrespective of whether he is a complainant or not. Even if the victim of an offence is a complainant, he can still proceed under the proviso to Section 372 and need not advert to sub-section (4) of Section 378 of Cr.P.C.

4. In view of judgment of the Hon'ble Supreme Court in the aforestated case, I proceed to pass the following:

O R D E R

(i) The Registry is directed to transfer this case to the Addl. District and Sessions Judge, Hunsur, for disposal, in accordance with law;

(ii) Registry shall send copy of this order along with necessary papers to the concerned Court;

(iii) The Transferee Court shall secure the presence of parties and proceed with the case in accordance with law.

Accordingly, the appeal stands ***disposed of.***

Sd/-
(G BASAVARAJA)
JUDGE

DHA
List No.: 1 Sl No.: 62