2026:PHHC:042621

269-2 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CRM-A-439-2022 (O&M)
Date of Decision:17.03.2026

Dr. S P Gupta ...Applicant

Versus

Hind Inns and Hotels Limited and another ...Respondents

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. K.K. Saini, Advocate
for the applicant.

Mr. Vikas Kuthiala, Advocate
for the respondents.

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AARADHNA SAWHNEY, J. (ORAL)

CRM-22060-2022

By virtue of the present application filed under Section 5 of the Limitation Act, applicant-appellant prays for condonation of delay of 815 days in filing the present appeal.

Contents of the application perused.

In view of the reasons mentioned in the application and keeping in view the basic spirit of law, as per which, the Court should endeavour to decide the case on merits and not on technicalities, in the larger interest of justice, delay of 815 days in filing the appeal stands condoned. Accordingly, instant application stands allowed.

CRM-A-439-2022

1. The applicant has filed the present application seeking grant of leave to appeal against the judgment of acquittal dated 13.12.2017 passed by the learned Judicial Magistrate Ist Class, Chandigarh in a case stemming from

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complaint No.5519 of 2015 filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter 'NI Act').

2. The limited question arising for consideration in the present proceedings is whether an appeal against an order of acquittal passed in a complaint case under Section 138 of the NI Act can be entertained under the proviso to Section 372 of the Cr.P.C. at the instance of the complainant?

3. The issue is no longer res integra. In '***M/s Celestium Financial Vs. A. Gnanasekaran Etc. 2025 INSC 804: 2025(3) RCR (Criminal) 208***', the Hon'ble Supreme Court authoritatively held that a complainant in a prosecution under Section 138 of the NI Act, qualifies as a 'victim' under Section 2(wa) of the Cr.P.C., being the person who suffers financial loss due to the dishonour of a cheque. Consequently, such a complainant is entitled to pursue an appeal against acquittal under the proviso to Section 372 of the Cr.P.C., without the requirement of seeking special leave under Section 378(4) of the Cr.P.C.

4. Adopting a pragmatic and justice oriented approach and guided by the principle that procedural rule must serve and not obstruct the course of justice, this Court deems it appropriate to direct that the present appeal be treated as one authoritatively instituted under the proviso to Section 372 of the Cr.P.C.

5. Therefore, in view of the judgment rendered by the Apex Court in Celestium Financial (supra), the present application seeking leave to appeal is remanded back to the concerned learned Sessions Judge with a direction to treat the same as appeal filed under Section 372 of the Cr.P.C. Learned Sessions Judge may retain the said appeal on his/her Board or assign it to some other Court of competent jurisdiction.

6. The Registry is directed to transmit this order along with copy of

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the complete paper-book and return the trial Court record, if received, to the learned Sessions Judge, concerned.

7. Disposed of accordingly.

8. Pending application, if any, also stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

17.03.2026
Parveen kumar

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No

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