



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**CRA-AS No.31 of 2018
Date of decision: 11.05.2026**

Rupinder Kaur

...Appellant

Versus

Kiran Bala

...Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present :- Mr. A.A. Pathak, Advocate
for the appellant.

Mr. Sandeep Dhiman, Advocate
for the respondent.

MANDEEP PANNU, J. (Oral)

1. The applicant has filed the application under Section 378(4) Cr.P.C. for grant of leave to file an appeal against the impugned judgment dated 02.01.2015 passed by learned Judicial Magistrate 1st Class, Patiala whereby, the trial Court has acquitted the respondent-accused in a complaint under Section 138 of the Negotiable Instruments Act.
2. Leave to appeal was granted.
3. The limited question which arises for consideration in the present proceedings is with regard to the maintainability of an appeal against an order of acquittal passed in a complaint case and, more particularly, as to whether such an appeal can be entertained under the proviso to Section 372 of the Code of Criminal Procedure at the instance of the complainant.



4. This Court has carefully considered the statutory scheme as contained in Sections 2(wa), 372 and 378 of the Cr.P.C. as also the object sought to be achieved by insertion of the proviso to Section 372 Cr.P.C. The said proviso confers a substantive right of appeal upon a “victim”, as defined under Section 2(wa) Cr.P.C., against an order of acquittal, conviction for a lesser offence or imposition of inadequate compensation.

5. The issue is no longer res integra. The Hon’ble Supreme Court in *M/s Celestium Financial v. A. Gnanasekaran, reported as 2025 INSC 804 : 2025(3) RCR (Criminal) 208*, has authoritatively held that a complainant in a prosecution under Section 138 of the Negotiable Instruments Act qualifies as a “victim” within the meaning of Section 2(wa) Cr.P.C., being the person who suffers financial loss on account of dishonour of cheque. It has further been held that such a complainant is entitled to maintain an appeal against acquittal under the proviso to Section 372 Cr.P.C. and that there is no requirement of seeking special leave to appeal under Section 378(4) Cr.P.C.

6. Applying the aforesaid legal position to the facts of the present case, this Court finds that the applicant, being the complainant and having suffered loss on account of the alleged offence, squarely falls within the definition of “victim” under Section 2(wa) Cr.P.C. Consequently, the right to prefer an appeal against acquittal under the proviso to Section 372 Cr.P.C. stands vested in the applicant.

7. In view of the authoritative pronouncement of the Hon’ble Supreme Court in *M/s Celestium Financial v. A. Gnanasekaran (supra)*,



and reiterating the legal position that a complainant-victim is entitled to maintain an appeal against acquittal under the proviso to Section 372 Cr.P.C. without seeking leave under Section 378(4) Cr.P.C., this Court deems it appropriate to treat the present application as an appeal instituted under the proviso to Section 372 of the Cr.P.C.

8. Accordingly, the present appeal is ordered to be remitted to the Court of learned Sessions Judge concerned with a direction to treat the same as having been filed under Section 413 of BNSS (corresponding Section 372 Cr.P.C.). Learned Sessions Judge concerned may entrust the appeal to himself/herself or assign it to some other Court of competent jurisdiction for its disposal.

9. The Registry is directed to transmit a copy of this order along with the complete paper-book, including pending applications, if any and return the trial Court record, if received, to learned Sessions Judge concerned.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(MANDEEP PANNU)
JUDGE

11.05.2026

neetu

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No