

2026:PHHC:038981



CRM-A-374-2020 (O & M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(232)**

**CRM-A-374-2020 (O & M)
Date of decision: 11.03.2026**

Kashmir Singh

..... Appellant(s)

V/s

Nirmal Sinfgh and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. M.S. Sidhu, Advocate, for the applicant(s).

JASJIT SINGH BEDI, J. (Oral)

1. The present application has been preferred under Section 378(4) Cr.P.C. seeking grant of leave to appeal against the judgment of acquittal dated 29.11.2019 passed by the Judicial Magistrate Ist Class, Batala in a case stemming from complaint dated 12.03.2014 bearing CIS No.COMI-67-2014 filed under Sections 406, 506, 34 IPC .

2. The complaint (supra) was filed on the ground that the respondents-accused cheated the complainant-kashmir Singh of Rs.4,55,000/- on the pretext of sending his son abroad. After assessing all the material available on the record, the learned trial Court acquitted the respondents No.1 and 2, namely, Nirmal Singh and Rupinder Kaur with the direction to get the complaint revived in case of arrest of accused Shamsheer Singh (who was declared a proclaimed offender vide order dated 10.10.2016 passed by the then JMFC, Batala) vide judgment dated 29.11.2019.



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3. The Hon'ble Supreme Court in *M/s. Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208*, after considerable discussion and comparative interpretation of Sections 372 and 378(4) of Cr.P.C., concluded that the victim has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions. Speaking through Justice B.V. Nagarathna, the following was held:

“7.12 The reasons for the above distinction are not far to see and can be elaborated as follows:

Firstly, the victim of a crime must have an absolute right to prefer an appeal which cannot be circumscribed by any condition precedent. In the instant case, a victim under Section 138 of the Act, i.e., a payee or the holder of a cheque is a person who has suffered the impact of the offence committed by a person who is charged of the offence, namely, the accused, whose cheque has been dishonoured.

Secondly, the right of a victim of a crime must be placed on par with the right of an accused who has suffered a conviction, who, as a matter of right can prefer an appeal under Section 374 of the CrPC. A person convicted of a crime has the right to prefer an appeal under Section 374 as a matter of right and not being subjected to any conditions.

Similarly, a victim of a crime, whatever be the nature of the crime, unconditionally must have a right to prefer an appeal.

Thirdly, it is for this reason that the Parliament thought it fit to insert the proviso to sub-section 372 without mandating any condition precedent to be fulfilled by the victim of an offence, which expression also includes the legal representatives of a deceased victim who can prefer an appeal.

On the contrary, as against an order of acquittal, the State, through the Public Prosecutor can prefer an appeal even if the



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complainant does not prefer such an appeal, though of course such an appeal is with the leave of the court. However, it is not always necessary for the State or a complainant to prefer an appeal. But when it comes to a victim's right to prefer an appeal, the insistence on seeking special leave to appeal from the High Court under Section 378(4) of the CrPC would be contrary to what has been intended by the Parliament by insertion of the proviso to Section 372 of the CrPC.

Fourthly, the Parliament has not amended Section 378 to circumscribe the victim's right to prefer an appeal just as it has with regard to a complainant or the State filing an appeal. On the other hand, the Parliament has inserted the proviso to Section 372 so as to envisage a superior right for the victim of an offence to prefer an appeal on the grounds mentioned therein as compared to a complainant.

Fifthly, the involvement of the State in respect of an offence under Section 138 of the Act is conspicuous by its absence. This is because the complaint filed under that provision is in the nature of a private complaint as per Section 200 of the CrPC and Section 143 of the Act by an express intention incorporates the provisions of the CrPC in the matter of trial of such a deemed offence tried as a criminal offence. Therefore, the complainant, who is the victim of a dishonour of cheque must be construed to be victim in terms of the proviso to Section 372 read with the definition of victim under Section 2(wa) of the CrPC.”

4. In view of the judgment rendered by the Hon’ble Supreme Court in ***Celestium Financial (supra)*** and this Court in ***Satish Kumar vs. Jugal Kishor in CRM-A-277-MA-2016 decided on 02.07.2025***, the learned

Sessions Judge, Gurdaspur is directed to treat the present leave to appeal as



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an appeal filed under Section 372 of the Cr.P.C. and entrust the same to appropriate Court for its disposal on merits, expeditiously.

- 5. The Registry is directed to send the complete paperbook and the record of the case to the learned Sessions Judge, Gurdaspur forthwith.
- 6. Disposed of accordingly.
- 7. Pending miscellaneous applications, if any, also stands disposed of.

March 11, 2026
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

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