



CRM-A-439-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-A-439-2024

SUNIL KUMAR

....PETITIONER

V/s

SURINDER KUMAR AND OTHERS

...RESPONDENTS

Date of decision:23.01.2026

Date of uploading:23.01.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOELPresent: Ms. Kirat Bir Kaur, Advocate
for the appellant/applicant.

Mr. Pankaj Bains, Advocate for the respondents.

SUMEET GOEL, J. (Oral)

1. The substantive prayer made in the present appeal reads, thus:

““It is, therefore, most respectfully prayed that the judgment of acquittal passed by Ld. Judicial Magistrate First Class, Sunam, vide Judgment dated 20.02.2024 be set aside and the accused be held guilty and be punished as per law.”

Alongwith an appeal, an application for grant of leave has also been preferred under Section 378(4) Cr.P.C., 1973

2. I have heard learned counsel for the rival parties and have perused the paper-book at some length.

3. Before proceeding to hear the application (for grant of special leave to appeal)/appeal on merits thereof, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***M/s Celestium Financial vs. A. Gnanasekaran Etc. 2025 INSC 804 : 2025(3) RCR (Criminal) 208***, relevant whereof reads as under:

“6.4 On a reading of the definition of ‘victim’, it is clear that the said expression is initially exhaustive and thereafter inclusive. The expression



‘victim’ means a person who has suffered any loss or injury. The loss or injury could be either physical, mental, a financial loss or injury. The expression injury could also be construed as a legal injury in a wider sense and not just a physical or a mental injury. The loss or injury must be caused by reason of an act or omission for which the accused person has been charged. Thus, it can be both by a positive act or negatively by an omission which is at the instance of the accused and for which such accused has been charged. Further, the expression ‘victim’ also includes his/her guardian or legal heir in the case of demise of the victim.

6.5 Thus, the expression ‘victim’ has been couched in a broad manner so as to include a person who has suffered any loss or injury. The expressions ‘loss’ or ‘injury’ themselves are of a very broad import which expressions also enlarge the scope of the expression ‘victim’. Further, the expression ‘victim’ includes not only the person who has suffered any loss or injury caused by reason of any act or omission for which the accused person has been charged but also includes his or her guardian or legal heir which means that the definition of victim is inclusive in nature.

6.6 Having regard to the insertion of the proviso to Section 372 of the CrPC, we find that in the case of a victim who seeks to file an appeal, he or she could proceed under the proviso to Section 372 of the CrPC in the circumstances mentioned therein and need not prefer an appeal by invoking Section 378(4) of the CrPC which is in respect of appeals to be filed by a complainant. It may be that the complainant is a victim in certain cases and therefore, the victim has the right to file an appeal under the proviso to Section 372 of the CrPC and need not proceed under Section 378(4) of the CrPC. However, if the complainant is not a victim and intends to file an appeal, in such a case a complainant would have to proceed under Section 378 of the CrPC which circumscribes the right to file an appeal by virtue of the conditions which are stipulated under the said Section.

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7.11 A reading of section 378 would clearly indicate that in case the complainant intends to file an appeal against the order of acquittal, his right is circumscribed by certain conditions precedent. When an appeal is to be preferred by a complainant, the first question is, whether, the complainant is also the victim or only an informant. If the complainant is not a victim and the case is instituted upon a complaint, then sub-section (4) requires that the complainant must seek special leave to appeal from an order of acquittal from the High Court. As noted under sub-section (6), if the application under sub-section (4) for grant of special leave to appeal



from the order of acquittal is refused, no appeal from that order of acquittal would lie, inter alia, under sub-section (1) of Section 378. However, if the complainant is also a victim, he could proceed under the proviso to Section 372, in which case the rigour of sub-section (4) of Section 378, which mandates obtaining special leave to appeal, would not arise at all, as he can prefer an appeal as a victim and as a matter of right. Thus, if a victim who is a complainant, proceeds under Section 378, the necessity of seeking special leave to appeal would arise but if a victim whether he is a complainant or not, files an appeal in terms of proviso to Section 372, then the mandate of seeking special leave to appeal would not arise.

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10. As already noted, the proviso to Section 372 of the CrPC was inserted in the statute book only with effect from 31.12.2009. The object and reason for such insertion must be realised and must be given its full effect to by a court. In view of the aforesaid discussion, we hold that the victim of an offence has the right to prefer an appeal under the proviso to Section 372 of the CrPC, 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 the CrPC.”

4. *Ergo*; in view of the dicta of the Hon’ble Supreme Court in ***M/s Celestium Financial*** (supra); the present appeal, along with accompanying application(s), is disposed of as hereunder:

(i) The present appeal, along with accompanying application(s), is remitted to the learned Sessions Judge, Sangrur with a direction to treat the same as having been filed under Section 372 of Cr.P.C., 1973/Section 413 of BNSS, 2023. The said learned Sessions Judge may entrust the appeal to himself or assign it to another Court of competent jurisdiction for its disposal, as per law.

(ii) Needless to clarify that this Court has not delved into the merits of the appeal as also along with accompanying application(s); and the same is left open for consideration of the concerned learned Sessions Court, which

shall indubitably adjudicate the same without getting influenced by any observation made hereinabove.

(iii). The Registry is directed to send, expeditiously, the complete records of the present appeal (including the paper-book) to the said learned Sessions Judge.

(SUMEET GOEL)
JUDGE

23.01.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No