2025:PHHC:125338

240 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-521-2023
Date of Decision: 11.09.2025

Abhey Singh ...Applicant

Versus

Rai Singh ...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Parveen Kaushik, Advocate
for the applicant.

***

AARADHNA SAWHNEY, J. (ORAL)

1. The applicant has filed the present application seeking grant of leave to appeal against the order 20.12.2022 passed by the learned Additional Chief Judicial Magistrate, Jhajjar whereby the complaint case was dismissed in default for want of non-appearance of complainant, in a case stemming from complaint dated 29.06.2020 filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter 'NI Act') (same amounts to acquittal of the accused).

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

PARVEEN KUMAR
2025.09.12 17:40
I attest to the accuracy and
integrity of this document

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 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

11.09.2025
Parveen kumar

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

PARVEEN KUMAR
2025.09.12 17:40
I attest to the accuracy and
integrity of this document