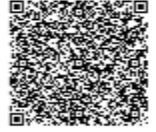


CRM-28424-2025 in/and
CRM-A-1554-MA-2014

-1-

2025:PHHC:097971



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

**CRM-28424-2025 in/and
CRM-A-1554-MA-2014 (O&M)
Date of decision: 01.08.2025**

Gajender

... Applicant

Vs.

Partap

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ashok Tyagi, Advocate and
Mr. Gaurav Tyagi, Advocate
for the applicant.

HARPREET SINGH BRAR, J. (ORAL)

CRM-28424-2025

1. This application has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking restoration of the main case, which was dismissed for want of prosecution.

2. In view of the averments made in the application, same is allowed. The order dated 17.03.2025 is hereby recalled and the main case, which was dismissed for want of prosecution, is ordered to be restored to its

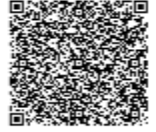


original number.

CRM-A-1554-MA-2014

3. Present application has been preferred under Section 378(4) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (*now Section 419(4) of BNSS*) seeking grant of leave to file appeal against the judgment dated dated 11.07.2012 passed by learned Additional Sessions Judge, Faridabad, vide which the appeal filed by the applicant-complainant challenging the judgment of acquittal dated 13.02.2012 passed by learned Judicial Magistrate 1st Class, Faridabad, in a complaint filed under Sections 138 & 142 of the Negotiable Instruments Act, 1881 read with Section 420 of the Indian Penal Code, 1860, was dismissed on the ground of non-maintainability.

4. The Hon'ble Supreme Court in *M/s Celestium Financial Vs. A. Gnanasekaran etc., 2025(3) RCR (Criminal) 208*, after considerable deliberation and comparative analysis of Sections 372 and 378(4) of Cr.P.C. (*now Sections 413 & 419(4) of BNSS*), concluded that the victim has a right to file an appeal under Section 372 of Cr.P.C. (*now Section 413 of BNSS*) before the Court of Sessions. Reliance in this regard can also be placed a judgment of this Court passed in the case of *Satish Kumar Vs. Jugal Kishor, CRM-A-2700-MA-2018*, decided on 02.07.2025. Further still, applying the doctrine of prospective overruling, the Hon'ble Supreme Court in *Directorate*



of Revenue Intelligence Vs. Raj Kumar Arora, 2025 SCC OnLine SC 819

has clarified that as a rule of thumb, judgments rendered shall be applicable retrospectively.

5. Therefore, in view of the judgment rendered by the Apex Court in *M/s Celestium Financial's* case (*supra*), present application seeking leave to file the appeal is remanded back to learned Sessions Judge, Faridabad with a direction to treat the same as filed under Section 372 of Cr.P.C. (*now Section 413 of BNSS*) and entrust it to the appropriate Court for its disposal on merits.

6. The Registry is directed to send complete set of paperbook and record of the case to learned Sessions Judge, Faridabad forthwith.

7. Disposed of, accordingly.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

01.08.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No