IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

222 **CRM-A-2019-MA-2018**
Date of decision : 21.08.2025

The Indian National Cooperative T&C Society Ltd.

..... Applicant/Appellant

VERSUS

Sanjay Shahi

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present: Mr. Mohit Sharma, Advocate for the applicant/appellant.

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SURYA PARTAP SINGH, J. (Oral)

1. The applicant has filed the present application seeking for leave to appeal against the judgment of acquittal, passed in a complaint case instituted under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'NI Act'), whereby, a complaint filed by the applicant was dismissed and the accused acquitted.

2. The limited question arising for consideration in the present proceedings is whether an appeal against a judgment of acquittal passed by the Court of learned Judicial Magistrate 1st Class in a complaint case, with regard to commission of offence punishable under Section 138 of NI Act, can be entertained at the instance of complainant under the proviso to Section 372 of the Cr.P.C.?

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'***

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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 the Cr.P.C., being the person who suffers financial loss due to dishonour of a cheque. Consequently, such a complainant is entitled to pursue an appeal against acquittal under the proviso to Section 372 of the CrPC without the requirement of seeking special leave under Section 378(4) of the Cr.P.C. The learned counsel for the applicant/appellant has submitted that the applicant/appellant, who is a victim, would like to exercise the option available to it before the Sessions Court.

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 CrPC. Similar view has been taken by this High Court in case CRM-A-2700-MA-2018, titled as ‘Satish Kumar Vs. Jugal Kishore’.

5. In conclusion, this Court is duty bound to harmonize contrasting provisions in a manner that best serves the interest of justice, using the method of *librere cherche scientifique* i.e. free scientific research. Therefore, in view of the judgment rendered by the Hon’ble Supreme Court in ***Celestium Financial (supra)*** and the fact that the present application for leave to appeal is pending since 2018, learned Sessions Judge, Hisar is directed to treat the present appeal, as an appeal filed under Section 372 of the Cr.P.C. and entrust the same to appropriate Court for its disposal.

6. The concerned Appellate Court shall proceed to decide the appeal expeditiously, without being impeded by any delay in filing the

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appeal, in view of the legal position now clarified by the Hon'ble Supreme Court.

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

8. Disposed of accordingly.

(SURYA PARTAP SINGH)
JUDGE

AUGUST 21, 2025
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No

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