

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 has submitted that the applicant would like to exercise the option available to him 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.

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 2019, learned Sessions Judge, Yamuna Nagar at Jagadhri 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

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

11.08.2025

'R. Sharma'

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