



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

(230)

**CRM-A-2573-MA-2017 (O&M)
Date of Decision: 31.7.2025**

Karamjit Kaur

.....Applicant

Versus

Surinder Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Raman Chawla, Advocate for
Mr. Jamshed Ahmed, Advocate
for the applicant.

KIRTI SINGH, J. (ORAL)

CRM-39226-2017

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 174 days in filing the present application seeking leave to appeal.

The application is allowed for the reasons stated therein.

Delay of 174 days in filing the present application seeking leave to appeal is condoned.

CRM-A-2573-MA-2017

1. The present application has been preferred under Section 378(4) Cr.P.C. seeking grant of leave to appeal against the judgment dated 4.3.2017 passed by the learned Judicial Magistrate First Class, Faridkot in the complaint case bearing CIS No. COMI-618-2013, whereby respondents No. 1 and 2 were acquitted of the charges framed against them under Sections 406, 498-A and 323 read with Section 34 IPC.

2. Brief factual matrix of the case at hand is that a complaint was



preferred by the complainant-petitioner against respondents No. 1 and 2 alleging therein that her marriage with respondent No. 1 Surinder Singh @ Suba Singh was performed on 12.11.2006 as per Anand Kararj ceremony at village Bajakhana. At the time of marriage, sufficient dowry articles were given by the parents of the complainant. However, the accused were not happy with the dowry articles and they harassed the complainant and started demanding more dowry. When the complainant could not fulfill their demands, she was subjected to maltreatment and harassment by the accused. It has further been alleged that the accused after given beatings to the complainant, turned out of her matrimonial home. The accused failed to rehabilitate her in the matrimonial home and started demanding Rs. One lac in cash. The complainant filed a complaint under Sections 406 498-A of the IPC in the learned Court concerned on 6.12.2008. However, the said complaint was withdrawn owing to a compromise being effected between the parties. It is further alleged in the complaint that after sometime, the accused again started demanding Rs. One lac and when the complainant could not fulfill their demand, she was turned out of the matrimonial home on 15.6.2010 by inflicting injuries on her person.

3. Charges in the present case were framed under Sections 406, 498-A and 323 read with Section 34 IPC and the trial commenced. However, vide impugned judgment dated 4.3.2017, both the accused were acquitted of charges framed against them. Feeling aggrieved with the said finding, the present application seeking grant of leave to appeal has been preferred.

4. I have heard learned counsel for the applicant and have perused the material available on record.

5. Before proceeding to hear the present application, it would be



apposite to first discuss the dictum of law as laid down by the Hon'ble Supreme Court in *M/s Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208*. The Hon'ble Supreme Court in the said case, while analyzing the law with respect to rights of a complainant/victim to appeal against orders of acquittal under Sections 372 and 378(4) Cr.P.C., conclusively upheld that a complainant, who is also a victim, has the right to file an appeal under the proviso to Section 372 of Cr.P.C. and need not to proceed under Section 378(4) Cr.P.C. Though the matter before the Hon'ble Supreme Court in the said case was with regard to the complaints under Section 138 of the Negotiable Instruments Act, 1881, nonetheless, the interpretation of law and the legal postulates contained therein, cannot be read as being confined solely to complaints under the said provision. The relevant paras of the authoritative pronouncement read thus:-

“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.

x x x x

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 46 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

x x x x

10. As already noted, the proviso to Section 372 of the Cr.P.C. 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 Cr.P.C., 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 Cr.P.C.”

6. In view of the judgment passed by the Hon'ble Supreme Court in ***Celestium Financial*** (supra) and the consistent view taken by this Court in subsequent cases, the learned Sessions Judge, Faridkot is directed to treat the present leave to appeal as an appeal filed under Section 378(4) Cr.P.C. and entrust the same to appropriate Court for its disposal.

7. The Registry is directed to send the complete paper-book and



the record of the case to the learned Sessions Judge, Faridkot forthwith.

8. Disposed of accordingly.

9. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

July 31, 2025
Gurpreet Singh

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