



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

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CRM-A-245-MA-2015 (O&M)
Date of Decision: 01.09.2025

INDU SHARMA

...Applicant-Appellant

V/S

RAJ KUMAR AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Anuj Malik, Advocate and
Mr. Ravinder Malik, Advocate for the applicant-appellant.

Mr. Sagar Aggarwal, Advocate
and Mr. Abhinav Kansal, Advocate for respondent No. 1.

Mr. S.S. Mor, Advocate
for respondent No. 3.

SHALINI SINGH NAGPAL, J. (ORAL)

The victim/complainant seeks leave to file appeal under Section 378(4) Cr.P.C. against impugned order of acquittal of learned JMIC, Karnal dated 20.05.2011 in complaint case captioned "Indu Sharma Vs. Raj Kumar and Ors." under Sections 354, 452, 294, 506 and 120-B IPC.

Before proceeding further, it would be apposite to refer to proviso to Section 372 Cr.P.C. (now Section 413 of Bhartiya Nagrik Suraksha Sanhita, 2023), which reads as under:

372. No appeal to lie unless otherwise provided. -



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No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

(Emphasis supplied)

In M/s Celestium Financial Versus A. Gnanasekaran etc.; (2025)

3 RCR (Criminal) 208, Hon'ble Supreme Court has interpreted Sections 372 and 378(4) of Cr.P.C. and has concluded that the victim in a private complaint case has a right to file an appeal under Section 372 of Cr.P.C. against the order of acquittal before the Court of Sessions. Relevant portion of the judgment is reproduced as under:

“..... But when it comes to a victim's right to prefer an appeal, the insistence on seeking special leave to appeal from the High Court under section 378(4) of the Cr.P.C. would be contrary to what has been intended by the Parliament by insertion of the proviso to Section 372 of the Cr.P.C. Fourthly, the parliament has not amended Section 378 to circumscribe the victim's right to prefer an appeal just as it has with regard to a complaint or the State filing an appeal. On the other hand, the Parliament has inserted the proviso to Section 372 so as to envisage a superior right for the victim of an offence to prefer an appeal on the grounds mentioned therein as compared to a complainant.”



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Observations of Hon'ble Supreme Court in *Directorate of Revenue Intelligence Versus Raj Kumar Arora; 2025 SCC Online SC 819*

would also be relevant and the same are reproduced as under:

“92. A judgment or decision which interprets a statute or provision thereof declares the meaning of the statute as it should be construed from the date of its enactment. In other words, the judgment declares what the legislature had said at the time when the law was promulgated and therefore, it has retrospective effect. On the contrary, it is the statute or the rule which is presumed to be prospective unless expressly made retrospective. What follows from the same, is that a decision or judgment enunciating a principle of law is applicable to all cases irrespective of the stage of pendency before different forums since what has been enunciated is the meaning of the law which existed from the inception of the concerned statute or provision.”

Abovementioned judgments of Hon'ble Supreme Court have also been followed by Co-ordinate Benches of this Court in *Mewa Devi Versus Pala and others; CRM-A-380-MA of 2017 and Dharampal Versus State of Haryana and others; CRM-A-489-MA of 2017*, while relegating similar matters to the Court of Sessions with a direction to treat the same as an appeal filed under Section 372 Cr.P.C. and to decide the same in accordance with law.

Learned counsel for respective parties have not controverted the above proposition of law.

In view of the pronouncements above, the matter is relegated to the Court of Sessions, Karnal. Learned Sessions Judge, Karnal shall treat the instant leave to appeal as an appeal filed under Section 372 Cr.P.C. and may entrust the

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same to himself/herself or assign it to some other Court of competent jurisdiction for its disposal on merits, in accordance with law.

Learned counsel for applicant-appellant shall inform the applicant to appear before learned Sessions Judge, Karnal within a period of 15 days from today either in person or through counsel.

Let entire paper book and record appended thereto be transmitted to learned Sessions Judge, Karnal forthwith.

Disposed of accordingly.

(SHALINI SINGH NAGPAL)
JUDGE

SEPTEMBER 01, 2025.

Ajay Goswami

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No