



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

(234)

**CRM-A-882-2019(O&M)
Date of Decision: 25.09.2025**

RAJ RANI AND ANR

.....Applicants

Versus

RAJINDER SINGH AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rakesh Gupta, Advocate
for the applicants.

KIRTI SINGH, J. (ORAL)**CRM-15849-2019**

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 36 days in filing the present application seeking leave to appeal.

The application is allowed for the reasons stated therein.

Delay of 36 days in filing the present application seeking leave to appeal is condoned.

CRM-A-882-2019(O&M)

1. The present application has been preferred **under Section 378(4) Cr.P.C.** seeking grant of leave to appeal against the judgment dated 25.01.2019 passed by the learned Judicial Magistrate 1st Class, Rajpura in Criminal Complaint No.41 RBT/2018 dated 27.04.2011, whereby all the accused-respondents were acquitted of the charges under Sections 452, 354, 506, 148 and 149 IPC, and respondents No.1, 2 and 5, though convicted under Section 323 read with Section 34 IPC, were released on probation.



2. Brief factual matrix of the case at hand is that a complaint was preferred by the complainant-petitioner No.1 against respondents No.1 to 6 alleging therein that she is the legally wedded wife of Satpal, who is running a Karyana shop from his house. It is further averred that on 05.12.2010, the accused persons, who are neighbours, entered the shop of Satpal and assaulted him while he was present there. When the complainant-petitioner No.1 and her children intervened, they were also beaten, the complainant-petitioner No.1 was bitten on her thigh, and obscene and indecent acts were committed against her daughters, accompanied by threats to kill the family. The injured were hospitalized, and despite reporting the matter to the police, no FIR was initially registered, prompting the complainant-petitioner No.1 to file the present complaint.

3. Charges in the present case were framed under Sections 354, 452, 323, 506, 148 and 149 IPC and the trial commenced. However, vide impugned judgment dated 25.01.2019, all the accused-respondents were acquitted of the charges under Sections 452, 354, 506, 148 and 149 IPC, while respondents No.1, 2 and 5, were convicted under Section 323 read with Section 34 IPC but were released on probation. 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 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 concerned is directed to treat the present appeal as an appeal filed under the proviso to Section 372 Cr.P.C. and entrust the same to appropriate Court for its disposal.

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

8. 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.

9. Disposed of accordingly.

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

(KIRTI SINGH)
JUDGE

25.09.2025

Kavita

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