



CRM-A-511-MA-2015 (O&amp;M)

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

232-1

**CRM-A-511-MA-2015 (O&M)  
Date of Decision: 23.09.2025**

**BALWINDER SINGH**

**....PETITIONER(S)**

**VERSUS**

**BOHAR SINGH & OTHERS**

**....RESPONDENT(S)**

**CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Chandan Singh for the appellant

Ms. Akanksha Gupta, AAG Punjab.

**KIRTI SINGH, J. (ORAL)**

\* \* \* \*

1. The instant appeal has been filed by the petitioner-Balwinder Singh against the judgement dated 16.11.2012 passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib in complaint under Sections 307/326/325/324/323/148/149/506/342/363/34 of IPC wherein, the accused persons (respondents herein) were acquitted from the aforementioned charges.

2. Brief factual matrix of the case is that that a complaint was moved by the appellant alleging that on 28.12.2007 at about 6.30, when the complainant had gone to his fields to fetch fodder, he and his nephew were attacked by the respondents-Balwant Singh and others over a dispute about a passageway. Despite a prior settlement, the accused assaulted the complainant



with clubs and a hatchet, causing injuries. The complainant's brother rescued him, but the nephew was illegally detained before being freed. A complaint was filed by the petitioner, whereupon trial ensued, upon the completion of which the respondents were acquitted vide judgment dated 16.11.2012, Aggrieved, the instant appeal was filed.

3. Learned counsel for the appellant submits that learned Trial Court gravely erred in acquitting the accused respondents, despite the case of the prosecution being duly proved from the testimonies of the material witnesses, supported by medical and scientific evidence. The appellant received six injuries, which have been duly proved from evidence of CW4-Dr. Madan Gopal Sharma, and thus, the judgment of acquittal by the learned Trial Court deserves to be set aside.

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, Sri Muktsar Sahib 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, Sri Muktsar Sahib forthwith.



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

**(KIRIT SINGH)**  
**JUDGE**

**23.09.2025**  
*NainaRajput*

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