



CRM-A-2635-MA-2017 (O&M) 1

223

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARHCRM-A-2635-MA-2017 (O&M)
Date of decision: 21.08.2025

BHOJAppellant

Versus

SURENDER KUMARRespondent

CORAM: HON'BLE MR. JUSTICE **SUBHAS MEHLA**Present: Mr. Ajit Sihag, Advocate
for the applicant-appellant.

SUBHAS MEHLA, J (Oral):

1. The present application has been preferred under Section 378 (4) of Criminal Procedure Code (hereinafter 'Cr.P.C.') seeking grant of leave to appeal against the judgment of acquittal dated 21.09.2017 passed by the learned Additional Chief Judicial Magistrate, Bhiwani in a complaint case filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter 'NI Act').

2. The Hon'ble Supreme Court in *M/s Celestium Financial vs. A. Gnanasekaran Etc., 2025(3) RCR (Criminal) 208*, after considerable discussion and comparative interpretation of Sections 372 and 378(4) of Cr.P.C., concluded that the victim has a right to file an appeal under Section 372 of Cr.P.C. before the Court of Sessions. Reliance in this regard can also be placed on **Satish Kumar Versus Jugal Kishor** in **CRM-A-2700-MA-2018** decided on 02.07.2025. Further still, applying the doctrine of prospective overruling, the Hon'ble Supreme Court in **Directorate of Revenue Intelligence Vs. Raj Kumar Arora** in **SCC Online 819** has clarified that as a rule of thumb, judgments rendered shall



CRM-A-2635-MA-2017 (O&M) 2

be applicable retrospectively.

3. Therefore, in view of the judgment rendered by the Apex Court in *Celestium Financial (supra)*, the present application seeking leave to appeal is remanded back to the learned Sessions Judge, concerned with a direction to treat the same as filed under Section 372 of the Cr.P.C. and entrust it to appropriate Court for its disposal.

4. The Registry is directed to send the complete paper-book and the record of the case to the learned Sessions Judge, concerned forthwith.

5. Pending miscellaneous application(s), if any, shall be disposed of accordingly by the concerned Court.

6. Disposed of accordingly.

(SUBHAS MEHLA)
JUDGE

21.08.2025
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1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No