

2026 LiveLaw (SC) 155

IN THE SUPREME COURT OF INDIA

SANJAY KUMAR; J., K. VINOD CHANDRAN; J.

Petition for Special Leave to Appeal (Crl.) No. 12350/2024

M/S EVEREST AUTOMOBILES *versus* M/S RAJIT ENTERPRISES

Negotiable Instruments Act, 1881 – Section 138 – Code of Criminal Procedure, 1973 – Sections 372 and 378 – Appeal against Acquittal – Right of Complainant as 'Victim' – Conflict of Judgments – Reference to Larger Bench – The Supreme Court observed a conflict between a recent co-ordinate Bench decision in *Celestium Financial vs. A. Gnanasekaran* (2025 INSC 804) and earlier decisions in *Satya Pal Singh vs. State of M.P.* and *Subhash Chand vs. State (Delhi Administration)* regarding whether a complainant in a Section 138 NI Act case must seek special leave to appeal under Section 378(4) CrPC or can appeal directly as a 'victim' under the proviso to Section 372 CrPC.

Statutory Interpretation – Section 378(4) & (5) CrPC – Supreme Court noted that Section 378(4) and (5) were preserved in the Code, making it incumbent upon a complainant who initiated prosecution to obtain leave before filing an appeal against acquittal in the High Court - Supreme Court expressed disagreement with the interpretation that the proviso to Section 372 overrides the requirement of seeking leave under Section 378(4) - Noting the "far-reaching consequences" of the issue and the conflicting precedents, the Bench directed the matter to be placed before the Hon'ble Chief Justice of India for an authoritative pronouncement by a larger Bench. [Paras 2-4]

[Arising out of impugned final judgment and order dated 10-04-2024 in CRMA No. 975/2023 passed by the High Court of Punjab & Haryana at Chandigarh]

For Petitioner(s): Mr. B. Badrinath, AOR

ORDER

Reliance is placed by the learned counsel for the petitioner on the recent judgment of this Court in "*Celestium Financial vs. A. Gnanasekaran*"¹. By way of the said judgment, a co-ordinate Bench of this Court held that a complainant in a case arising under Section 138 of the Negotiable Instruments Act, 1881, is a 'victim' who would be entitled to file an appeal under the *proviso* to Section 372 of the Code of Criminal Procedure, 1973². It was further held that such appeal could be filed against an order of acquittal under the *proviso* to Section 372 of the Code without seeking special leave to appeal under Section 378(4) of the Code.

However, this judgment did not take into account the earlier decisions of this Court in *Satya Pal Singh vs. State of M.P.*³ and *Subhash Chand vs. State (Delhi Administration)*⁴, which have a bearing on both the aspects that were considered in the aforesaid judgment, as they held to the contrary.

Further, we are also unable to agree with the interpretation placed by the co-ordinate Bench upon the scheme of the Code in the context of Sections 372 and 378 thereof. Perusal of Section 378(1), (2) and (3) of the Code reflects that the *proviso* to Section 372 thereof was carved out, keeping in mind the distinction between the

¹ 2025 INSC 804

² For short "the Code"

³ (2015) 15 SCC 613

⁴ (2013) 1 SCC 802

prosecuting agency and the victim. We may also notice that Section 378(4) and (5) were preserved in the Code, which make it incumbent upon the complainant, who initiated the prosecution on a complaint which resulted in acquittal, to obtain leave before an appeal is filed before the High Court.

In such circumstances, we are of the opinion that it is desirable that a larger Bench gives an authoritative pronouncement on this issue as it has far-reaching consequences. The matter may be placed before the Hon'ble the Chief Justice for appropriate directions in that regard.

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