



2026:CGHC:14503



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No.403 of 2018

Robin Sharma, S/o Umesh Sharma, aged about 20 years, R/o 48/113, Saket Colony, Durg, Tahsil and District – Durg, Chhattisgarh (Complainant)

... Appellant

versus

1. Aditya Dixit, S/o Late Bahadur Dixit, R/ o near Govt. Hospital, Kargi Road, Kota, District – Bilaspur, Chhattisgarh, (Accused)
2. State of Chhattisgarh, Through the District Magistrate, District – Durg, Chhattisgarh,

... Respondents

For Appellant	:	Mr. Praveen Kumar Dhurandhar, Advocate
For Respondent No.1	:	None
For Respondent No.2	:	Mr. Ram Narayan Sahu, Dy. G.A.

Hon'ble Shri Justice Radhakishan Agrawal

Order on Board

27/03/2026

1. This is an acquittal appeal filed under Section 378(4) of the Cr.P.C. by the complainant/appellant against the judgment dated 29.08.2018 passed by the Judicial Magistrate First Class, Durg, (C.G.) in Complaint Case No.7306/2015, in which the learned JMFC has acquitted the respondent No.1/accused of the charge



under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the “Act of 1881”).

2. Learned counsel for the appellant/complainant submits that though leave to appeal under Section 378(4) of the Cr.P.C. has been granted by this Court, but recently the Supreme Court in the matter of **M/s. Celestium Financial Vs. A. Gnanasekaran Etc.** reported in **2025 INSC 804** held that the complainant in a complaint filed under section 138 of the Act of 1881 is also a victim as defined in Section 2(wa) of Cr.P.C. corresponding to Section 2(y) of Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the “BNSS”). He submits that the Supreme Court has further held that the complainant in a complaint under section 138 of the Act of 1881 can also be entitled to file an appeal under proviso to section 372 Cr.P.C. corresponding to Section 413 of the BNSS.
3. Learned counsel for the appellant submits that the Supreme Court in the aforesaid case has reserved the liberty in favour of the petitioner therein to prefer an appeal in the light of the provisions of Section 372 of the Cr.P.C, and therefore, in this case also the appellant may be permitted to withdraw this appeal with liberty to prefer an appeal before the concerned Session Judge under Section proviso to 372 Cr.P.C. corresponding to Section 413 of BNSS. He further submits that the limitation may not come in the way while deciding the appeal on its own merits.
4. Heard learned counsel for the Appellant and perused the documents on record.



5. Considering the submissions made herein above and also in the light of judgment laid down by the Supreme Court referred to above, this Court is inclined to permit the appellant to withdraw this appeal by granting him liberty to prefer the appeal against the impugned order dated 29.08.2018 before the concerned Sessions Judge within a period of 60 days from the date of receipt of copy of this order. Ordered accordingly. It is clarified that if such an appeal is filed before the concerned Sessions Judge within the time prescribed by this Court, it would not insist upon the limitation while deciding the same and will proceed to decide the same in accordance with law.
6. In that view of the matter, Registry is directed to return the certified copy of the impugned order after obtaining the attested photocopy of the same.
7. The record of the case be sent back to the concerned Court forthwith.
8. In view of the above, the present appeal stands disposed of.

Sd/-

(Radhakishan Agrawal)
Judge