

CA No. 464/24
SUCHITRA MEHTA VS. STATE NCT OF DELHI.

06.04.2026

Present :- Ms. Ritu Shahi, Ld. LAC for appellant.
Sh. Jagdamba Pandey, Ld. Addl. PP for State.
Ms. Guninder Gill, Ld. Counsel for the respondent.

Further arguments on the point of jurisdiction heard.

1.0 Ld. Counsel for the respondent has placed reliance upon *Sh. K. Keshava Vs. State of Karnataka*, CrI. Appeal No. 528/26 dated 14.01.2026, *Atul Lakra Vs. State of Govt of NCT of Delhi*, CrI. Rev. P. No. 484/24 decided on 30.10.2025, *Pushpraj & Anr Vs. the State of Himachal Pradesh*, Cr. Rev. No. 168/10 decided on 16.03.2017 and *Mallikarjun Kodagali through Ltd. Vs. The state of Karnataka*, (2019) CrI. LJ 532 SC.

1.1 Per contra, Ld. Counsel for the appellant relied upon the law laid down by the Hon'ble Supreme Court in *M/s Celestium Financial Vs. A. Gnanasekaran etc, 2025 LiveLaw (SC) 666*, wherein it was held as under:

“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.”

2.0 Arguments heard. Record perused. Considered.

3.0 Briefly stated, the instant appeal arises out of an order of acquittal passed by the Ld. Trial Court in case titled as *State Vs. Shivdhar Upadhyay*, thereby acquitting the accused u/s 509 IPC. Upon notice to the instant appeal, the respondent put in the appearance and raised preliminary objection regarding the maintainability of the present appeal on the ground that since the order of acquittal is passed by the Ld. Trial Court in a bailable and cognizable offence, thus, rigors of Sec. 378 Cr.PC would come into the picture, as per which an appeal in such cases against the order of acquittal would lie only before the Hon'ble High Court. She further submits that even the said embargo has not been done away by the judgment of *M/s Celestial's case (supra)* relied upon by the Ld. Counsel for the appellant as in the said judgment only rigors of 378(4) Cr.PC for preferring an appeal u/s 372 Cr.PC has been done away which mandates special leave of appeal from an order of acquittal and therefore, the rigors of remaining provisions of Sec. 378 Cr.PC are still in force as far as order of acquittal in cases other than non bailable and cognizable offence is concerned i.e. the case before hand.

3.1 Admittedly, in *M/s Celestial's case (supra)*, the Hon'ble Supreme Court has categorically held that right of a victim or complainant u/s 372 Cr.PC to prefer an appeal against the order of acquittal is an independent right and thus, the rigors of Sub Section 4 of Sec. 378 CrPC, 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. However, following the said judgment, Hon'ble Delhi High Court in *Ms. Sangeeta Govil Vs. Sh. Nishant Aggarwal* in CRL.A. 919/2023 decided on 17.09.2025, arising out of an order of acquittal passed in a bailable and non cognizable case i.e., u/s 138 NI Act while elaborately dealing with the issue held that u/s 372 Cr.PC, if victim or complainant prefers to move an appeal against the order of acquittal in a offence u/s 138 NI Act, which as per Sec 378 Cr.PC ought to lie before the Hon'ble High Court, can be appealed before the court of Sessions as in the case of conviction u/s 138 NI Act. The relevant paragraphs in this regard are reproduced herein under:

“6. Section 2 (wa) of Cr.P.C. defines victim in the following fashion:- “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his other guardian or legal heir; This definition was added to the Code with effect from 31.12.2009. This was accompanied by a slew of victim centric changes to the Code, such as the victim compensation scheme in Section 357A and 357B, free medical aid to the victims of certain offences under Section 357C, etc. One of the most important rights which has been provided to the victims is the right to appeal, which has been inserted as a proviso to Section 372 CrPC. It reads as under:- “Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or

imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.” A careful reading of the above proviso would show that the victim can appeal from three types of orders : a) an order of acquittal, b) a conviction for a lesser offence or c) imposing inadequate compensation. It also states that such appeal shall lie to the court to which an appeal ordinarily lies This is a digitally signed order. The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 07/04/2026 at 12:49:57 against the order of conviction of such court. Section 372 is a self-contained and independent provision which is not to be read conjointly with any other provision, including Section 378 Cr.P.C. It applies to acquittals from both Trial Court and Appellate Court and the appeal would lie in the first hierarchical superior court. (Ref: Asian Paints limited v. Ram Babu &Anr1 , Mahabir v. State of Haryana2)

7. Introduction of this proviso does, in effect, two things. One, it provides the victim an individual right to appeal against an order of acquittal which is distinct from the right provided to the complainant under Section 378(4) Cr.P.C as in this case, no special leave to appeal needs to be obtained from the High Court. Secondly, there is a difference in the forum to which appeals can be preferred. While under Section 378(4) Cr.P.C, after granting special leave to appeal, the High Court would hear the appeal. However, in case of an appeal preferred by the victim under Section 372 CrPC, the same lies before the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

3.2 Thus, in view of the law laid down by the Hon’ble Supreme Court in *M/s Celestium Financial’s case (supra)*, and elaborated by Hon’ble Delhi High Court in *Sangeeta Govil’s case (supra)*, I am of the considered opinion that this Court has jurisdiction to deal with the appeal filed by the victim. Accordingly, **the objection as to the jurisdiction of this Court raised by the respondent is dismissed.**

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**Put up for arguments on the merits of the appeal on
28.05.2026.**

At request, copy of the order be given dasti to Ld.
Counsel for the respondent.

(Ajay Garg)
Special Judge-NDPS/ASJ (South)
Saket Courts/06.04.2026