

**In the Court of Additional District and Sessions Judge,
Gangarampur at Buniadpur, Dakshin Dinajpur.
Criminal Appeal No. 02 of 2024
Com. Reg. No. 02 of 2024
CNR No. WBDD05-000065-2024
JO CODE No. WB-842
Present- Smt. Melissa Gurung
Addl. Dist.& Sess Judge
Gangarampur at Buniadpur,
Dakshin Dinajpur.**

Order No. 12
13-11-2025

Both parties file their respective advocates haziras.

Ld. Addl. P.P-in-charge files hazira on behalf of the State.

Today is fixed for hearing on point of maintainability.

Heard all sides in full.

This is an appeal against acquittal and generally an appeal against acquitted from the Court of the Ld. Magistrate will not lie in this Court until the said appeal is by the victim as provided u/s 372 of the Cr.P.C.

The moot question here is whether the complainant of a complaint u/s 138 of the N.I Act will be considered to be a victim. In this contention it is to be noted that the person who is prejudice and faces loss in a complaint u/s 138 of the N.I Act is the complainant, therefore, on an acquittal from the trial Court in the said complaint the complainant may be construed as the victim.

While coming to this conclusion I am fortified by the judgement of the **Hon'ble Supreme Court** passed in **Special Leave Petition (Crl) Nos. 137-139/2025** dated 08-04-2025 in **M/S Celestium Financial Vs A. Gnanansekaran Etc** and the judgement of **the Hon'ble Supreme Court in Criminal Appeal Nos. 1281-82 of 2018** dated 12-10-2018 in **Mallikarjun Kodagali (Dead) Vs State of Karnataka & Others.**

Hence the appeal is maintainable.

Fix 14-01-2026 for hearing of the appeal.

Dictated & Corrected by

Addl. Dist. & Sess. Judge,
Gangarampur at Buniadpur,
Dakshin Dinajpur.

(Melissa Gurung)
(WB-00842)
Addl. Dist. & Sess. Judge,
Gangarampur at Buniadpur,
Dakshin Dinajpur.