



2025:CGHC:30914

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 14 of 2023

Sunil Kumar Rao S/o Puranlal Rao, Aged About 43 Years, R/o State Bank Colony Ward No. 06, Bemetara, Tahsil And District Bemetara (C.G.)

... Appellant

versus

Vikash Kumar Shrivastava S/o Jugal Kishore Shrivastava, Aged About 34 Years, R/o Quality Printers, New Bus Stand, Infront Of Garden, Bemetara, Than And Tahsil And District Bemetara (C.G.)

... Respondent

For Appellant : Shri Samir Singh, Advocate.

For Respondent : None, though served.

SB: Hon'ble Shri Justice Sanjay S. Agrawal

Judgment on Board

07/07/2025

- 1) This appeal has been preferred by the appellant/complainant under Section 378(4) of the Code of Criminal Procedure, 1973, against the judgment of acquittal dated 04/07/2022 passed by the Judicial Magistrate First Class, Bemetara (C.G.) in Complaint Case No.2400029/2016, whereby, the Respondent/accused has been acquitted of the charge under Section 138 of the Negotiable Instrument Act, 1881.

- 2) At the outset, learned counsel appearing for the appellant submits that recently in the judgment dated 08/04/2025 rendered by Hon'ble Supreme Court in the matter of ***M/s Celestium Financial vs. A. Gnanasekaran Etc.,*** reported in ***2025 INSC 804***, right to file appeal under proviso to Section 372 Cr.P.C. was discussed and it was held that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. Learned Counsel for the appellant submits further that the Supreme Court in the said matter 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 the instant case also the appellant may be permitted to withdraw this appeal with liberty to prefer an appeal before the concerned Session Judge under proviso to Section 372 Cr.P.C. corresponding to Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023. He further submits that the limitation may not come in the way while deciding the appeal on its merits.
- 3) In the light of the submissions made herein-above and considering the law declared by the Supreme Court in the said matter, this Court is inclined to permit the appellant to withdraw this appeal by granting him liberty to prefer the appeal against the impugned judgment dated 04/07/2022 passed by the Judicial Magistrate First Class, Bemetara (C.G.) in Complaint Case No.2400029/2016, before the concerned Sessions Judge within a period of 30 days from the date of receipt of copy of this order. Order accordingly.

- 4) It is clarified that if such an appeal is preferred before the concerned Session Judge within the time given 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.
- 5) Registry shall return the certified copy of the impugned judgment and relevant documents to counsel for the appellant after retaining the photocopy of the same and, shall remit the record to the concerned Court forthwith.
- 6) Accordingly, the appeal is disposed of.

Sd/-

(Sanjay S. Agrawal)
JUDGE