



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**ACQA No. 35 of 2012**

Ajay Jain, aged about 42 years, S/o late Shri Anraj Jain, R/o Main Road, Mahasamund, P.S., Tahsil & District-Mahasamund (C.G)

... Appellant/Complainant**versus**

Prakash Chopda, aged about 60 years, S/o late Shri Anraj Jain, R/o 18 Recreation Road, Choubey Colony, Raipur, District Raipur (C.G.)

... Respondent/Accused

For Appellant : Shri Prithviraj Sahu appears on behalf of Shri Prateek Sharma, Advocate.

For Respondent : Mrs. Shital Sharma appears on behalf of Shri Vaibhav A. Goverdhan, Advocate.

(HON'BLE SHRI JUSTICE RADHAKISHAN AGRAWAL)**Judgment on Board****23/02/2026**

Heard.

1. This is an appeal filed under section 378 (4) of Cr.P.C. by the appellant/complainant against the judgment dated 19.10.2011 passed by the Judicial Magistrate First Class, Mahasamund (C.G.) in Complaint Case No.117/2010 whereby the learned Trial Court acquitted the respondent/accused of the charges under Section 138 of the Negotiable Instruments Act, 1881 (for short, the Act of 1881).
2. Learned counsel for the appellant/complainant submits that the appellant qualifies as a "victim" within the meaning of Section 2(wa) of the Code of Criminal Procedure, 1973 (hereinafter "Cr.P.C."), which



corresponds to Section 2(y) of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS"). It is further submitted that the Hon'ble Supreme Court, in the case of M/s. Celestium Financial Vs. A. Gnanasekaran & Ors., reported in 2025 INSC 804, has held that a complainant is also to be considered a victim. Learned counsel further submits that the Supreme Court in the aforesaid judgment granted liberty to the petitioner therein to prefer an appeal under the provisions of Section 372 of the Cr.P.C. Accordingly, it is prayed that the appellant in the present matter may be permitted to withdraw the present appeal with liberty to prefer an appeal before the competent Sessions Judge under the proviso to Section 372 of the Cr.P.C., corresponding to Section 413 of the BNSS. It is further submitted that the question of limitation may not be a bar while adjudicating the appeal on its merits.

3. On the other hand, learned counsel for the respondent does not raise any objection to the submissions made by the learned counsel for the appellant.
4. Heard learned counsel for the parties 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/complainant to withdraw this appeal by granting liberty to prefer the appeal against the impugned judgment dated 19.10.2011 before the concerned Sessions Court 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 Court within the time prescribed by this Court, it would not insist upon the limitation while deciding the same and will



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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 judgment 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