



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1680 of 2025

1 - Sumit Tyres And Batteries Through Prop. Suraj Sharma S/o Late Jagdish Sharma Age 48 Years, Shop At Mandi Complex Main Road Arang R/o Village Rasni Laxmi Vihar Colony Arang District - Raipur (C.G.) (Complainant).

... Petitioner

versus

1 - Raju Pal S/o Shri Santu Pal, R/o Village Paragaon P.S. Arang, Tahsil Arang District - Raipur (C.G.).

... Respondent

For Petitioner	: Mr. Ankit Bhoi, Advocate on behalf of Mr. Jitendra Nath Nande, Advocate.
For Respondent	: Not noticed.

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Order on Board

16/09/2025

- The complainant/petitioner has filed this petition under Section 419(4) of BNSS seeking grant of leave to appeal. The prayer made in the acquittal appeal filed along-with the petition shows that he seeks a direction to set aside the impugned judgment dated 04.03.2025 passed by the Judicial Magistrate First Class, Raipur, District – Raipur (C.G.) in Criminal Case No. 5654/2019 by which the respondent/accused was acquitted of the charge under Section 138 of the Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner submits that since the complaint filed u/s section 138 of NI Act before the trial Court stood dismissed, the petition filed u/s 419(4) of BNSS can be disposed of in terms of an acquittal appeal and it is no longer necessary to seek special leave to appeal, because the complainant is considered victim and has statutory right to appeal under the proviso to Section 413 BNSS (Section 372 CrPC).
3. Having considered the submission made by learned counsel, this Court is inclined to dispose of this petition in terms of acquittal appeal.
4. At this stage, learned counsel for the petitioner submits that in view of the recent decision of the Supreme Court rendered in **M/s. Celestium Financial Vs. A. Gnanasekaran Etc.** reported in **2025 INSC 804** wherein it has been 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 (for short the "BNSS") and the said complaint can also be entitled to file an appeal under proviso to section 372 Cr.P.C. corresponding to Section 413 of the BNSS*, therefore, the case may be disposed of reserving liberty so as to avail the said remedy of appeal.
5. In view of the aforesaid submission and considering the law declared in the matter of **Celestium Financial** (supra), this Cr.M.P/Appeal is disposed of reserving liberty in favour of the petitioner to file an appeal within a period of 60 days from the date of receipt of a copy this order before the appropriate Court, in accordance with law. It is further made clear that if such an appeal is filed before the concerned Court 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.

6. Registry shall return the certified copy of the impugned judgment/order and relevant documents to counsel for the petitioner after retaining the photocopy of the same.
7. Registry shall send back the record to the concerned Court.

Sd/-
(Sanjay Kumar Jaiswal)
Judge

H.L. Sahu