



sg

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.47 of 2009

Bharat Bastimal Jain
Age 34, Adult, Occu-Business,
R/o. Tara Apartment, Flat No.6,
Madhav Ashram Road, Mahrshi Nagar,
Gultekdi, Pune-37

... Appellant

versus

1. Narayan Shisrao Goare
Age Adult, Occu-Business,
R/o. Rajrshi Colony,
C.C.No.49, Lane No.2,
Opp. Hemangi Beauty Parlour,
Vadgaon Sheri, Pune.

2. The State of Maharashtra

... Respondents

None for the appellant.

None for respondent No.1.

Ms GP Mulekar, APP, for respondent No.2/ State.

Coram: R.N. Laddha, J.

Date: 1 April 2026.

P.C.:

. The present appeal takes exception to the judgment and order dated 1 August 2008 passed by the learned Judicial Magistrate First Class, Pune, in Criminal Case No.51316 of



2007, whereby respondent No.1 herein was acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The learned Additional Public Prosecutor representing respondent No.2/State, relying on the judgment of the Hon'ble Supreme Court in *Celestium Financial vs A. Gnanasekaran*, 2025 SCC OnLine SC 1320, submits that, by virtue of the proviso to Section 372 of the Code of Criminal Procedure, 1973, the appellant has a statutory right to challenge an acquittal. On this basis, it is asserted that the present appeal be transferred to the Sessions Court so that the appellant can effectively exercise this right and is not deprived of a proper adjudicatory forum. Reliance is also placed on the decisions in (i) *Kotak Mahindra Finance Ltd vs Nobiletto Finlease & Investments*, Criminal Appeal No. 645 of 2006 dated 31 October 2005, Delhi High Court; (ii) *Pooja Trading Company vs Harishchandra Manjrekar*, Criminal Appeal No.1016 of 2006 dated 13 October 2025, Bombay High Court; (iii) *Shivputra Arwat vs Sangappa Bhasgikar*, Criminal Appeal No. 1051 of 2008 dated 8 October 2025, Bombay High Court; (iv) *Salimshah Haji Shakurshan vs Syd. Javdali Syd Anwarali*, Criminal Appeal No. 167 of 2006 dated 15 October 2025, Bombay High Court at Aurangabad; (v) *Pankaj Mehta vs Vishal*



Hundar, 2026 SCC OnLine MP 800; (vi) Sunil Kumar vs Daljit Kaur, 2025:PHHC:092344; and (vii) Raj Kumar Vs Rajender, 2025:PHHC:079740, to contend that no legal impediment exist in directing transfer of the appeal to the Court of Sessions, which is the competent forum.

3. Considering the submissions advanced and the decisions cited above, this Court deems it appropriate to transfer the present appeal to the Court of Sessions, having jurisdiction.

4. Accordingly, the learned Registrar (Judicial) is directed to ensure prompt transmission of the entire record of the present appeal to the concerned Sessions Court. Upon receipt, the Sessions Court shall register the appeal and proceed to decide it on its own merits and in accordance with law. Given the prolonged pendency of the matter, the learned Sessions Court is requested to dispose it of at the earliest.

5. The appeal stands disposed of in the aforesaid terms.

(R.N. Laddha, J.)