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28.apel708-09.docx 2026:BHC-AS:15738

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No.708 of 2009

Tukaram Maruti Parihar,
Age 67 years, Occupation - Retired,
Residing at - 288, Kakade Township,
Keshavnagar, Chinchwad, Pune

... Appellant

versus

1. Pawan Ramdayal Agarwal
Age 32 years, Occupation - Business,
Residing at - 44, Old Bazar, Hule Road,
Near Ganpati Temple, Khadki, Pune
(Original Accused)

2. The State of Maharashtra

... Respondents

None for the appellant.

Mr Sudhir Hardikar, 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 arises from the judgment and order dated 25 July 2008 passed by the learned Judicial Magistrate First Class, Khadki, Pune, in SCC No.1869 of 2006, 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 a victim of an offence, including a complainant under Section 138 of the NI Act, has the statutory right to prefer an appeal against an order of acquittal under the proviso to Section 372 of the Code of Criminal Procedure, 1973. According to the learned APP, the transfer is necessary to ensure that the appellant can exercise the statutory right of appeal without being deprived of an appropriate forum. Reliance is also placed on the decisions passed 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 submit that there is no impediment for transferring the present appeal to the concerned Sessions Court. In view thereof, this Court deems it appropriate to transfer the present appeal to the learned Sessions Court.

3. Accordingly, The learned Registrar (Judicial) is directed to take immediate steps to transfer the complete record of the appeal to the concerned Sessions Court. Upon receipt, the Sessions Court shall register the appeal and decide the same on its own merits and in accordance with law. Considering the long pendency of the matter, the learned Sessions Judge is requested to dispose of the appeal expeditiously.

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

(R.N. Laddha, J.)