

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

Criminal Appeal No.734 of 2007

Mr Pathik Patel

Age: 48 yrs, Adult, Indian

Inhabitant carrying on business

in the name and style of

M/s Ruchika Collection at 300/101,

third lane corner, Mangaldas market,

Mumbai- 2

... Appellant.

Vs.

1. The State of Maharashtra

2. M/s SFX India

A partnership firm registered under

provisions of Indian Partnership Act

carrying on business at Unit No.E-46,

Kailash Industrial Estate, Vikhroli Park

Side, Vikhroli (W), Mumbai-79

3. Smt Sucheta Jagannath Shetty

Partner of M/s SFX India

Unit No.E-46, Kailash Industrial Estate,

Vikhroli Park Side, Vikhroli (W),

Mumbai-79

4. Smt Jayalaxmi Jagannath Shetty

Partner of M/s SFX India

Unit No.E-46, Kailash Industrial Estate,

Vikhroli Park Side, Vikhroli (W),

Mumbai-79

Mr SV Vora for the appellant.
Ms GP Mulekar, APP for the respondent / State.
None for respondent No.3.

Coram : R.N.Laddha, J.

Date : 2 April 2026.

P.C. :

The present appeal takes exception to the judgment and order dated 14 May 2007 passed by the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai in CC No.6417/SS/2005, whereby respondents No.2 to 4 herein, were acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The learned Counsel appearing on behalf of the appellant has relied on the judgment of the Hon'ble Supreme Court in *Celestium Financial v. A. Gnanasekaran*, 2025 SCC OnLine SC 1320, to submit that by virtue of 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 *Pankaj Mehta vs Vishal Hundar*, 2026 SCC

OnLine MP 800; Sunil Kumar vs Daljit Kaur, 2025:PHHC:092344; and Raj Kumar vs Rajender, 2025:PHHC:079740 to submit that there is no impediment for transferring the appeal to the concerned Sessions Court.

3. Considering the submissions, 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 to the concerned Sessions Court. Upon receipt, the Sessions Court shall register the appeal and proceed to decide the same on its own merits and in accordance with the law expeditiously.

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

[R. N. Laddha, J.]