



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

Criminal Appeal No.1121 of 2008

Ishwarbhai Hirdas Patel
Age:70 yrs, Managing Director
Darshan Hosiery Industries
Ltd, Res.203, Rajanigandha
Gores Wadi road, Malad,
Mumbai-64

... Appellant.

Vs.

1. Rajesh Bhatia (partner)
Mermaid Exports, 7, Olympus
Industrial Estate, layout road,
Off Mahakali Road, Andheri(E)
Mumbai-93.

2. Mermaid Exports,
7, Olympus
Industrial Estate, layout road,
Off Mahakali Road, Andheri(E)
Mumbai-93.

3. The State of Maharashtra
through PP, High Court, Mumbai

... Respondents.

Mr Rohit P Mahadik a/w Farhan Shaikh i/by Khandeparkar
and Associates for the appellant.

Ms GP Mulekar, APP for the respondent / State.

Coram : R.N.Laddha, J.

Date : 1 April 2026.



P.C. :

The present appeal arises against the Judgment and Order dated 2 March 2007, passed by the Metropolitan Magistrate, 13th Court, Dadar, Mumbai, in CC No.159/S/2002, whereby the respondents No.1 and 2 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 placed reliance on the judgment of the Hon'ble Supreme Court in *Celestium Financial v. A. Gnanasekaran*, 2025 SCC OnLine SC 1320, to submit that a victim of an offence, including a complainant under Section 138 of the Negotiable Instruments Act, is vested with a statutory right to prefer an appeal against an order of acquittal under the proviso to Section 372 of the Code of Criminal Procedure, 1973. He further submits that in order to safeguard the appellant's right to avail of the proper forum for such statutory remedy, transfer of the present appeal is necessary. Reliance is also placed on the decisions in *Kotak Mahindra Finance Ltd Vs Nobiletto Finlease and Investments*, Criminal Appeal No.645 of 2006 dated 31



October 2025, Delhi High Court; Pooja Trading Compnay v/s Harishchandra Manjrekar, Criminal Appeal No.1016 of 2006 daed 13 October 2025, Bombay High Court; Shivputra Arwat vs Sangappa Bhasgikar, Criminal Appeal No.1051 of 2008 dated 8 October 2025, Bombay High Court; Salimshah Haji Shakrushan vs Syd Javdali Syd Anwarali, Criminal Appeal No.167 of 2006 dated 15 October 2025, Bombay High Court at Aurangabad; 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 contend that no legal impediment exists in directing transfer of the appeal to the Court of Sessions, which is the competent forum.

3. Having considered the submissions advanced, this Court is deems it appropriate to transfer the present appeal to the Sessions Court having jurisdiction.

4. Accordingly, the Registrar (Judicial) is directed to forthwith transmit the entire record and proceedings of the appeal to the concerned Sessions Court. Upon receipt, the learned Sessions Court shall register the appeal and proceed to adjudicate the same on its own merits and in accordance



with law expeditiously.

5. The appeal is accordingly disposed of in the aforesaid terms.

[R. N. Laddha, J.]