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

**Criminal Appeal No.1131 of 2008**

Sajjanben L Dhanresha  
Aged about 54 years,  
An adult of Indian Inhabitant  
Of Mumbai residing at Rege  
Building, 2<sup>nd</sup> Floor, 19,  
Shivajivanji Lane,  
Chira Bazar,  
Mumbai - 400 002

... Appellant

versus

1. The State of Maharashtra

2. Suresh Kumar Babulal Kothari  
An adult Indian Inhabitant  
Proprietor of M/s. Shree Paraswnath  
Enterprises, having office at 3,  
Dhanalaxmi Apartments, 1<sup>st</sup> Floor,  
Opp. Shree Ambamata Temple,  
Valsad - 396001  
and residing at 101-A, Shashwat  
Apartments, Opp. Shree Ambamata  
Temple, Valsad - 396001

... Respondents

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Ms Sapna Krishnappa, i/b. Mr Suresh Dubey, for the appellant.  
Mr VA Kulkarni, APP, for respondent No.1/ State.  
None for respondent No.2.

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**Coram: R.N. Laddha, J.  
Date: 1 April 2026.**

**P.C.:**

. The present appeal takes exception to the judgment and order dated 27 September 2006 passed by the learned Metropolitan Magistrate, 28<sup>th</sup> Court, Esplanade, Mumbai, in CC No.400/S/2001, whereby respondent No.2 herein was acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The learned Counsel appearing on behalf of the appellant points out the decision of the Hon'ble Supreme Court in *Celestium Financial vs A. Gnanasekaran*, 2025 SCC OnLine SC 1320, to submit 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 Court of 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. Having considered the submissions advanced, 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 transmit the entire record and proceedings of the present appeal to the concerned Sessions Court. Upon receipt, the learned Sessions Court shall register the appeal and proceed to decide the same on its own merits in accordance with law, expeditiously.

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

**(R.N. Laddha, J.)**