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35.apcal895-10.docx 2026:BHC-AS:15749

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.895 of 2010

M/s. Vashney Builders (Bom) Pvt. Ltd.
A Private Ltd Company
Incorporated under the Indian Companies
Act, having its Registered Office at
14, Anil and Anant Estate Village Road,
Bhandup, Mumbai 400078
Through it's Chairman
Pawankumar Radhyashyam Gupta

... Appellant

versus

1. Rambhadur Singh
Proprietor of M/s Lamitech Industries
403, Devprayag Co-op Hsg Society
Ltd., Bhakti Mandir Road,
Thane 400602

2. The State of Maharashtra
(To be served through office of Ld
PP, High Court Mumbai)

... Respondents

None for the appellant.

None for respondent No.1.

Ms Anagha A Deshmukh, 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 3 August 2010 passed by the learned Judicial Magistrate First Class, Thane, in SCC No.1144 of 2005, 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, has placed reliance on the judgment of the Hon'ble Supreme Court in *Celestium Financial vs A. Gnanasekaran*, 2025 SCC OnLine SC 1320, to submit 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. It is further urged that in order safeguard the appellant's right to avail of the proper forum for such statutory remedy, the transfer of the appeal is warranted. 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 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 Sessions Court having jurisdiction.

4. Accordingly, The learned Registrar (Judicial) is directed to transmit the entire record and proceedings of the appeal 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 law, expeditiously.

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

(R.N. Laddha, J.)