

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. A. No.56 of 2025

Date of Decision:08.12.2025

Meghalaya Cooperative Apex Bank Ltd
A Cooperative Bank incorporated under
The provisions of Meghalaya Co-operative Societies Act,
Having its Head Office at MCAB Building,
Mahatma Gandhi Road, Shillong-793001,
Represented by its Managing Director,
Shri. Osmand Ewen Jyrwa Nongbri.

..... Appellant

-VERSUS-

1. The State of Meghalaya, represented by the
District Magistrate, East Garo Hills District,
Williamnagar, Meghalaya.

2. Shri. Khillon Areng,
Son of (L) U.D. Sangma,
Resident of Village Rangdoknam,
South Garo Hills Baghmara, Meghalaya.

3. Shri. Raj Kumar Battarai
Son of (L) Gangaram Jaishi
Resident of Village- Motinagar, Shillong,
East Khasi Hills District, Meghalaya.

..... Respondents

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge.

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. V.K. Jindal, Sr.Adv with
Mr. S. Goenka, Adv

For the Respondent(s) : Mr. R. Gurung, GA (R:1)
Mr. S. Dey, Adv (R:2&3)

(ORDER)

Per. B. Bhattacharjee, Judge:

1. This appeal has been filed by the appellant in the capacity of a victim against the judgment dated 14.11.2023 passed by the Chief Judicial Magistrate, East Garo Hills District, Williamnagar in G.R. Case No.21 of 2018 and also the judgment dated 16.12.2024 passed by the Sessions Judge, East Garo Hills District, Williamnagar in Criminal Appeal No.1 of 2024 upholding the judgment dated 14.11.2023.

2. The question of maintainability of the appeal has been raised on behalf of the respondent Nos.2 & 3 and the parties were heard on the issue.

3. We have heard Mr. V.K. Jindal, learned Senior counsel assisted by Mr. S. Goenka, learned counsel for the appellant, Mr. S. Dey, learned counsel appearing for the respondent Nos.2 & 3 and also Mr. R. Gurung, learned GA appearing for the State-respondent No.1.

4. For the sake of clarity and convenience, a reference to the brief fact of the case is deemed necessary. On 14.11.2007, an FIR was lodged by the Development Officer, Grade-I, I/C Area Office of the Appellant Bank at East Garo Hills before the Officer-in-Charge, Williamnagar Police Station, alleging, *inter-alia*, that an amount of Rs.22,19,000/- was found missing and did not appear with their deposit statement of the State Bank of India,

Williamnagar Branch. Basing on the FIR, the Williamnagar P.S. Case No.58(11) of 2007 was registered and the matter was investigated into. Upon completion of the investigation, a charge-sheet under section 409 IPC was filed against six accused persons including the respondent Nos. 2 & 3. Consequently, G.R. Case No.21 of 2018 was initiated against the accused persons in the Court of the Chief Judicial Magistrate, Williamnagar. During the course of the trial, out of the six accused persons, three were discharged and one passed away leaving behind only the respondent Nos. 2 & 3 to face the trial. The learned Chief Judicial Magistrate, after conducting the trial, acquitted the respondent Nos. 2 & 3 by judgment dated 14.11.2023. An appeal was preferred by the State before the Court of the Sessions Judge, Williamnagar, against the acquittal which was registered as Criminal Appeal No.1 of 2024. The learned Sessions Judge after hearing the parties by judgment dated 16.12.2024 dismissed the appeal and upheld the acquittal. It appears that the State has not made any further challenge to the judgment dated 16.12.2024. However, the appellant, being victim of the alleged offence, has preferred the instant appeal before this Court assailing the impugned judgment dated 14.11.2023 of the Trial Court as well as the judgment dated 16.12.2024 of the Appellate Court.

5. Assailing the maintainability of this appeal, Mr. S. Dey, learned counsel for the respondent Nos. 2 & 3 submitted that the appellant, being a victim, has no right to file the appeal under section 419(1)(b) read with section 413 of the Bharatiya Nagarik

Suraksha Sanhita, 2023 (BNSS in short) against the acquittal of the respondent Nos. 2 & 3 as a victim's right of filing appeal against an order of acquittal is limited to the proviso to section 413 BNSS which, *inter-alia*, contemplates filing of appeal by victim against the order acquitting the accused. Admittedly, the appellant herein has not filed any appeal against the judgement dated 14.11.2023 acquitting the respondent No. 2&3 in terms of section 413 BNSS. He contended that section 419(1)(b) can only be availed by the State Government and not by the victim of a crime. He further contended that the appellant could not have directly approached the High Court by filing the appeal as the order of acquittal was passed by the Court of Chief Judicial Magistrate and not by the Sessions Court. He submitted that the present appeal before this High Court, essentially being a second appeal, is also not maintainable as there exists no provision either in the CrPC or BNSS contemplating filing of second appeal. The learned counsel placed reliance on a decision of the High Court of Madhya Pradesh in *Madhya Pradesh Paschim Kshetra Vidyut Vitran Company Limited v. Firoz Khan* (2025:MPHC-IND:228) and submitted that a victim may prefer an appeal against an order of acquittal in the Court to which the appeal ordinary lies against the order of conviction. He, therefore, submitted that since High Court is not the Court where an appeal would ordinarily lie against an order of conviction by a court of Magistrate, the present appeal is not maintainable and liable to be dismissed forthwith.

6. Mr. V.K. Jindal, learned Senior counsel, appearing for the appellant, submitted that the appellant being a victim of the crime has an indispensable right to file appeal against the order of acquittal under section 413 BNSS (section 372 CrPC). He submitted that since the State had preferred an appeal to the Sessions Court against the judgement of acquittal dated 14.11.2023 of the Trial Court, the appellant did not prefer a separate appeal before the Sessions Court. However, as the State has not made any further challenge to the judgment dated 16.12.2024 of the Sessions Court, the appellant has now preferred the instant appeal before the High Court. He submitted that the appellant must have one right to appeal and the same cannot be washed off on the pretext of technicalities of law. By referring to section 419(1)(b), he submitted that an appeal lies to the High Court from an original or appellate order of acquittal passed by any court other than a High Court and, hence, the appellant has the right to prefer the instant appeal against both the orders of acquittal, *i.e.* the original order and the appellate order. To buttress his argument, the learned Senior counsel relied on the decision of the Apex Court in *Asian Paints Limited v. Ram Babu & Anthoer*, 2025 SCC OnLine SC 1427 and also the case of *Lata Ramesh More v. Ramesh Dinkar More and others*, 2015 SCC OnLine Bom 6221. He submitted that the objection as to the question of maintainability raised on behalf of the respondent No. 2&3 has no legal basis and is liable to be rejected.

7. Mr. R. Gurung, learned GA, appearing for the State respondent No.1, supported the argument made on behalf of the appellant and submitted that the use of the word 'any order' in proviso to section 413 BNSS makes it amply clear that the appellant has a right to challenge any order of acquittal, whether original or appellate, by filing an appeal. Therefore, the objection raised by the respondent No. 2&3 has no legs to stand and needs no consideration by this Court.

8. Mr. S Dey in his reply contended that the authorities cited on behalf of the appellant are not applicable in the facts and situation involved in the present appeal as none of the authorities relied on by the appellant dealt with the issue of maintainability of second appeal against the order of acquittal of accused person.

9. We have heard the arguments advanced on behalf of the respective parties and also perused the materials available on record. There is no dispute to the fact that the appellant did not challenge the judgement dated 14.11.2023 of the Trial Court acquitting the respondent Nos. 2&3 by filing an appeal before the Sessions Court nor did the appellant participate in the appeal which was filed at the instance of the State respondent before the Sessions Court, Williamnagar.

10. It appears that the instant appeal was initially presented by the appellant along with CrI. M.C. No. 50 of 2025 under section 419(3) BNSS seeking leave of the Court to prefer appeal against the acquittal of the respondent Nos. 2&3. However, the said misc. case was withdrawn on realization of the fact that no leave is

required in case of filing of appeal by victim as has been held by the Apex Court in the case of *M/s. Celestium Financial v. A. Gnanasekaran Etc.* 2025 INSC 804.

11. The claim of being a victim of offence by the appellant is not sought to be disputed by the respondent Nos. 2&3. Therefore, the only question that falls for consideration of this Court is whether the instant appeal, which makes a challenge to not only the Trial Court's order of acquittal, but also to the appellate order of affirmation of acquittal, is maintainable at the instance of the appellant/victim under the proviso to section 413 BNSS.

12. At this juncture, reference to provision of section 413 BNSS is necessary which reads as follows: -

“413. No appeal to lie unless otherwise provided. - No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Sanhita or by any other law for the time being in force:

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

13. It is clear from the above that the proviso to section 413 BNSS grants the victim a right to appeal against a Court's order of acquittal, conviction for a lesser offence, or imposition of an inadequate compensation. The appeal lies to the Court that would ordinarily hear an appeal against the conviction of such Court. In this context, it would be appropriate to refer to some of the

observations made by the Apex Court in the case of *Asian Paints Limited (supra)* which are as follows: -

“43. We are constrained to observe that the finding of the High Court that the appellant could not have maintained the appeal before it would amount to completely negating the proviso to Section 372 of the CrPC. In our considered opinion, Section 372 of the CrPC is a self-contained and independent Section; in other words, it is a stand-alone Section. Section 372 of the CrPC is not regulated by other provisions of Chapter XXIX of the CrPC. The proviso to Section 372 of the CrPC operates independently of and shall not be read conjointly with any other provision in the CrPC, much less Section 378 of the CrPC.

45. Furthermore, another aspect that needs to be considered is as to whether an appeal under the proviso to Section 372 of the CrPC would be restricted only to mean an appeal to the First Appellate Court or include even an appeal to the Second Appellate Court/High Court, which happens to be the case herein.

46. We find that this is not a very complicated issue of law. We do not propose to complicate it! The language employed by the proviso to Section 372 of the CrPC is unambiguous to the effect that ‘the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

47. From the aforesaid elucidation, it is clear that the right to appeal accrues on the ‘victim’ from the instance of a Court acquitting the accused. The proviso to Section 372 of the CrPC is agnostic to the factum of such acquittal being by the Trial Court or the First

Appellate Court. We can see the situation through another lens also. In the facts at hand, acquittal was by the First Appellate Court and not by the Trial Court. Therefore, since, in the present case, for the first time, the acquittal comes in at the stage of the First Appellate Court (being a Sessions Court), in law, the right of appeal by the victim would be to the next higher level in the judicial hierarchy, which would be the High Court. However, for that purpose, the High Court could also have been the First Appellate Court, if the Trial Court, being a Court of Sessions had acquitted the accused. Thus, the reasoning of the High Court that if the appellant was allowed to maintain the appeal, it would amount to an appeal as envisaged under Section 378 of the CrPC, is factually and legally erroneous, which proposition we negate.”

14. Before proceeding further, it is important to take note of the fact that Section 372 CrPC corresponds to Section 413 BNSS and Section 378 CrPC corresponds to Section 419 BNSS. Thus, read in the light of the proposition of *Asian Paints Limited (supra)* case, it is clear that section 419 BNSS structures State appeals against acquittal and clearly bars a further State appeal from a Sessions Court’s appellate order of acquittal to the High Court in certain situation. However, the proviso to section 413 BNSS creates the victim as a new class of appellant with a distinct right to appeal against ‘any order’ of acquittal, lesser conviction, or inadequate compensation and such right is not governed or cut down by section 419 BNSS’s ‘second appeal’ logic. The proviso to section 413 BNSS makes it clear that it has borrowed only the forum from section 415 BNSS and not the whole architecture of

section 419 BNSS. The proviso to section 413 BNSS, therefore, confers unfettered right of appeal to the victim, distinct from the provision of section 419 BNSS and not dependent on any earlier step taken by the victim.

15. The proviso to Section 413 BNSS is indifferent to whether the order of acquittal is rendered by the Trial Court or by the First Appellate Court. Therefore, when a victim files an appeal under the proviso for the first time, even against an order which has already been the subject of a state appeal, that appeal is counted with reference to the victim, not with reference to how many times the acquittal has been tested at the instance of other parties. It is, thus, a first victim's appeal, not a second appeal against the acquittal in the sense prohibited by section 419 BNSS. Thus, the contention raised on behalf of the respondent Nos. 2&3 that if the appellant is allowed to maintain the appeal, it would amount to a second appeal is erroneous.

16. The case of *Madhya Pradesh Paschim Kshetra Vidyut Vitran Company Limited (supra)* cited on behalf of the respondent Nos. 2&3 and the decision of *Lata Ramesh More (supra)* relied on behalf of the appellant were rendered in relation to application for grant of special leave to appeal under Section 378(4) CrPC and, therefore, are not relevant to the issue involved in the present matter.

17. For what has been discussed, the objection to the maintainability of the present appeal raised on behalf of the respondent Nos. 2&3 stands rejected.

18. The present appeal is admitted. Let the Trial Court record as well as the Appellate Court record be called for.
19. List immediately after receipt of the records.

(B. Bhattacharjee)
JUDGE

(W.Diengdoh)
JUDGE

Meghalaya
08.12.2025
"Shrity, PS"