



IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLA No.1408 of 2025

Arati Mishra

.....

Appellant

Represented by Adv. -
Niranjan Lenka

-versus-

Bijay Kumar Das

.....

Respondent

Represented by Adv. –

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
15.12.2025
I.A. No.3285 of 2025

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. This is an application filed at the instance of the Appellant with a prayer for conversion of the present CRLA to CRLLP.
 3. Learned counsel for the Appellant at the outset contended that although the present appeal has been filed under the proviso to Section 372 of the Cr.P.C. which corresponds to Section 413 of the B.N.S.S., however, the complainant-Appellant should have preferred an application seeking leave under Section 378(4) of the Cr.P.C. to prefer an appeal against the judgment of acquittal. On perusal of the appeal memo, it appears that the present appeal has been filed at the instance of the complainant in a case which arises out of I.C.C. Case No.67 of 2022 for alleged commission of an offence under Section 138 of the NI Act passed by the learned



S.D.J.M., Baripada.

4. On perusal of the impugned judgment it appears that the learned trial court has acquitted the Opposite Party-accused of the charges under Section 138 of the N.I. Act. Being aggrieved by such judgment of acquittal the complainant has approached this Court by filing the present appeal. Learned counsel for the Appellant at the outset contended that under a wrong impression of legal provisions he has put up this appeal under Section 372 of the Cr.P.C. However, the complainant should have sought for leave under Section 378(4) of the Cr.P.C. Accordingly, it was prayed that the present appeal be converted to one criminal leave petition.

5. On perusal of the entire record, this Court is of the view that the complainant in 1.C.C. Case is the Appellant before this Court against a judgment of acquittal which arises out of a proceeding in a complaint case involving Section 138 of the N.I. Act. Thus there is no dispute with regard to the fact that the complainant is a victim as defined under Section 2(wa) of the Cr.P.C. Therefore, an appeal under the proviso under Section 372 of the Cr.P.C. which was amended in the year 2009 is very well maintainable at the instance of the complainant as has been held by the Hon'ble Supreme Court in the case of *Celestium Financial vs. Gnanasekaran Etc.* reported in (2025) SCC Online SC 1320. In view of the aforesaid position, this Court is of the view that the appellant has not committed any error by filing an appeal. However, such appeal is required to be presented before the learned Jurisdictional District Judge. Hence it is directed that the appeal memo along with record be transferred to the Court of



learned District Judge, Mayurbhanj at Baripada with a direction to re-register the appeal and to take up the same for hearing.

6. Accordingly, the present appeal stands closed.

(Aditya Kumar Mohapatra)
Judge

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