HC-KAR

NC: 2025:KHC-D:16445
CRL.A No. 100053 of 2023

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.RACHAIAH

CRIMINAL APPEAL NO. 100053 OF 2023 (A-)

BETWEEN:

HOLE HUCHESHWAR CO-OPERATIVE
CREDIT SOCIETY KAMATAGI,
REPRESENTED BY ITS GENERAL MANAGER,
PAMPANNA S/O. SARANGAPPA PARAGI,
AGE: 54 YEARS, R/O: GULEDGUDDA,
TALUK: HUNGUND,
DIST: BAGALKOT- 591201.

...APPELLANT

(BY SRI. SHIVARAJ P. MUDHOL, ADVOCATE)

AND:

ABUSHAMA S/O MOHAMODHANIF KHAJI,
AGE: 49 YEARS,
R/O: WARD NO.2,
BASAVESHWAR NAGAR,
BILAGI, TALUK. BILAGI,
DIST. BAGALKOT- 591201.

...RESPONDENT

(BY SRI. B.B. BALLARI, ADVOCATE)

Digitally signed by SAMREEN AYUB DESHNUR
Location: HIGH COURT OF KARNATAKA

THIS CRIMINAL APPEAL IS FILED U/SEC. 378 (4) OF CR.P.C. SEEKING TO SET ASIDE THE IMPUGNED JUDGMENT AND ORDER OF ACQUITTAL DATED 19.10.2022 IN CC NO. 600/2021 PASSED BY THE II ADDL. SENIOR CIVIL JUDGE AND J.M.F.C. BAGALKOT AND CONVICT THE RESPONDENT FOR OFFENCE PUNISHABLE U/SEC. 138 OF N.I. ACT, BY ALLOWING THIS APPEAL IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR FURTHER ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S.RACHAIAH)

1. This appeal is filed by the appellant/complainant being aggrieved by the judgment of acquittal passed by the Trial Court.

2. However, the Hon'ble Supreme Court in ***Celestium Financial Vs. A. Gnanasekaran Etc.***[1], held in paragraph No.10 as under:

> *"10. As already noted, the proviso to Section 372 of the CrPC was inserted in the statute book only with effect from 31.12.2009. The object and reason for such insertion must be realised and must be given its full effect to by a court. In view of the aforesaid discussion, we hold that the victim of an offence has the right to prefer an appeal under the proviso to Section 372 of the CrPC, irrespective of whether he is a complainant or not. Even if the victim of an offence is a complainant, he can still proceed under the proviso to Section 372 and need not advert*

[1] 2025 SCC Online SC 1320

to sub-section (4) of Section 378 of the Cr.PC."

3. On careful reading of the judgment of the Apex Court *supra,* it is evident that, the complainant being victim has to file an appeal against the order of acquittal before the Jurisdictional Sessions Court by invoking Section 372 of the Code of Criminal Procedure, 1973.

4. In view of the law laid down by the Apex Court, in ***Celestial*** supra, the appeal by the complainant against the order of acquittal is not maintainable before this Court. Since this Court has no jurisdiction to decide the appeal on merit, the appeal is transferred to jurisdictional Appellate Court/Sessions Court.

5. The parties shall appear before the jurisdictional Appellate Court / Sessions Court on ***13.01.2026***, without further notice of the concerned Court.

6. The Registry shall transmit entire appeal papers including appeal memo to the jurisdictional Sessions Court.

7. The learned counsel for the appellant shall have the liberty to carry out the amendment in the cause title and also the provisions thereof.

8. For statistical purpose, this appeal stands disposed off.

9. Ordered accordingly.

Sd/-
(S.RACHAIAH)
JUDGE

SMM
List No.: 3 Sl No.: 13