



2025:CGHC:43968

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 277 of 2022**

Smt. Monalisa Agrawal, W/o Shri Ajay Agrawal, Aged About 28 Years, R/o Danipara, Raigarh, Tehsil And District Raigarh Chhattisgarh. Through General Power Of Attorney Holder Brijmohan Agrawal, S/o Late. Kalicharan Agrawal, Aged About 68 Years, R/o Danipara Raigarh, Tehsil And District Raigarh Chhattisgarh.

**... Appellant****versus**

Gadaray Gupta S/o Late Shri Makardhwaj Gupta, Aged About 50 Years, R/o Chichor Umaria, P.S. And Tehsil Pusoor, District Raigarh Chhattisgarh.

**... Respondent**


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For Appellant	: Shri Ayush Lal, Advocate appears on behalf of Shri Sufaraj Khan, Advocate.
For Respondent	: Shri Manoj Kumar Sinha, Advocate.

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**SB: Hon'ble Shri Justice Sanjay S. Agrawal****Judgment on Board****29/08/2025**

1. This appeal has been preferred by the appellant/complainant under Section 378(4) of the Code of Criminal Procedure, 1973, against the judgment of acquittal dated 29/05/2019 passed by the Judicial Magistrate First Class, Raigarh (C.G.) in Complaint Case No.901/2012, whereby, the Respondent/accused has been acquitted of the charge under Section 138 of the Negotiable Instrument Act, 1881.

2. At the outset, learned counsel appearing for the appellant submits that recently in the judgment dated 08/04/2025 rendered by Hon'ble Supreme Court in the matter of ***M/s Celestium Financial vs. A. Gnanasekaran Etc.,*** reported in ***2025 INSC 804***, right to file appeal under proviso to Section 372 Cr.P.C. was discussed and it was held that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court. Learned Counsel for the appellant submits further that the Supreme Court in the said matter has reserved the liberty in favour of the petitioner therein to prefer an appeal in the light of the provisions of Section 372 of the Cr.P.C, and, therefore, in the instant case also the appellant may be permitted to withdraw this appeal with liberty to prefer an appeal before the concerned Session Judge under proviso to Section 372 Cr.P.C. corresponding to Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023. He further submits that the limitation may not come in the way while deciding the appeal on its merits.
3. Learned counsel for the respondent submits that in case an appeal is filed, the respondent will not insist upon the limitation.
4. In the light of the submissions made herein-above and considering the law declared by the Supreme Court in the said matter, this Court is inclined to permit the appellant to withdraw this appeal by granting him liberty to prefer the appeal against the impugned judgment dated 29/05/2019 passed by the Judicial Magistrate First Class, Raigarh (C.G.) in Complaint Case No.901/2012, before the concerned Sessions

Judge within a period of 30 days from the date of receipt of copy of this order. Order accordingly.

5. It is clarified that if such an appeal is preferred before the concerned Session Judge within the time given by this Court, it would not insist upon the limitation while deciding the same and will proceed to decide the same, in accordance with law.
6. Registry shall return the certified copy of the impugned judgment and relevant documents to counsel for the appellant after obtaining the photocopy of the same and, shall remit the record to the concerned Court forthwith.
7. Accordingly, the appeal is disposed of.

**Sd/-**  
**(Sanjay S. Agrawal)**  
**JUDGE**