

Empowering Victims: Supreme Court Affirms Complainant's Right to Appeal Under Section 138 NI Act

The Supreme Court's recent judgment in *Celestium Financial v. A. Gnanasekaran* (2025 INSC 804) marks a watershed moment in the jurisprudence surrounding Section 138 of the Negotiable Instruments Act, 1881. This landmark decision addresses a critical procedural question that has long plagued complainants seeking redress for dishonoured cheques: *whether they can file appeals against acquittal orders as victims under Section 372 of the Criminal Procedure Code, 1973, without requiring special leave from higher courts.*

The case is particularly relevant in light of the current commercial climate, where acknowledgement of the cheque as an accepted means of business exchange continues despite the rapid adoption of a cashless economy. Even with thousands of Section 138 actions pending in numerous courtrooms, and complainants frequently embroiled in a lengthy litigation process where adequate appellate opportunities are rare or lacking, this case provides clarification concerning victims' entitlements. The decision not only resolved a significant area of contention in the law but reinforced the legislative purpose of formulating severe remedies for cheque dishonour offences, whereby the economic victims of cheque defaults (dishonour) are not left without viable and effective legal recourse where the trial court's decision(s) are wrong.

A two-judge Supreme Court panel comprising Justices B.V. Nagarathna and Satish Chandra Sharma noted expressly that the complainant is the 'primary victim' of the offence, properly, since in all cases, the complainant sustains financial loss. The latter reasoning is consistent with the definition of the victim under Section 2(wa) of the CrPC, which defines a victim as someone who suffers financial, psychological or physical harm as a consequence of an offence.

The two-Judge Bench observed,

"In the context of offences under the Act, particularly under Section 138 of the said Act, the complainant is the aggrieved party who has suffered economic loss and injury due to the default in payment by the accused owing to the dishonour of the cheque, which is deemed to be an offence under that provision. In such circumstances, it would be just, reasonable and in consonance with the spirit of the CrPC to hold that the complainant under the Act also qualifies as a victim within the meaning of Section 2(wa) of the CrPC. Consequently, such a complainant ought to be extended the benefit of the proviso to Section 372, thereby enabling him to maintain an appeal against an order of acquittal in his own right without having to seek special leave under Section 378(4) of the CrPC."

The Court held that **complainants under Section 138 of the NI Act qualify as victims** within the statutory definition under Section 2(wa) CrPC. The Court reasoned that

"in the context of offences under the Act, particularly under Section 138, the complainant is clearly the aggrieved party who has suffered economic loss and injury due to the default in payment by the accused owing to the dishonour of the cheque."

The Court emphasised the **unity of the complainant and the victim** in NI Act proceedings, observing that

"under Section 138 of the Act both the complainant as well as the victim are one and the same person." The judges noted that only a victim of cheque dishonour can file a complaint under Section 138, making the procedural distinction between complainant and victim meaningless in this context.

Addressing the **constitutional dimension**, the Court held that the victim's right to appeal cannot be circumscribed by the same statutory rigours applicable to State or complainant appeals, as it potentially involves fundamental rights under Articles 14 and 21 of the Constitution.

In this particular judgement, the Court held that complainants can choose whether to appeal (1) as victims under Section 372 proviso, or (2) as complainants under Section 378, providing them with a contestable process for relief. This judgement reflects a fashionably progressive approach to criminal law prosecutorial processes and can be described as a victim-centric decision that aligns with modern conceptions of individual victim roles in the criminal justice system.

The Court's reasoning demonstrates a sophisticated understanding of the economic nature of Section 138 offences and the unique position of complainants in such proceedings. By recognising that complainants are victims who suffer tangible economic harm, the judgment acknowledges the reality that cheque dishonour primarily affects the payee rather than society at large. This approach is consistent with the legislative intent behind creating special remedies for negotiable instrument offences.

The decision also promotes **procedural efficiency** by providing complainants with an additional avenue for seeking redress without requiring special leave. This is particularly significant given the high pendency of NI Act cases and the need for expeditious resolution of commercial disputes.

By addressing the complainant as a candid victim with independent appellate rights, the Supreme Court ensures that the remedial infrastructure constructed under the Negotiable Instruments Act is applied effectively.

The ramifications of this judgment will be manifestly substantial for commercial litigation, and it will encourage more victims of economic offences to pursue restitution because they have access to relevant appellate remedies.

The judgment can be accessed from:

(https://api.sci.gov.in/supremecourt/2024/49668/49668_2024_6_10_60765_Judgement_08-Apr-2025.pdf)

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