

No. R(J)/67/2023

High Court of Karnataka,
Bengaluru,
Dated 17th April 2023

CIRCULAR

The Hon'ble Court in Criminal Appeal No. 1624/2021 has passed Order dated 06.03.2023, the relevant portion of which reads as under:

"...The learned counsel for the appellant has stated that the appellant has wrongly filed an appeal before the Sessions Court earlier. Then the matter was remanded back. Again there was a judgment of acquittal. Again the appellant, without knowing the provision of law preferred an appeal before the Sessions Court. The Sessions Court convicted the accused. Against that the accused preferred a revision before this Court in CrI.R.P.No.1288/2018, wherein this Court observed that the remedy of the appellant in this case is to file an appeal. Accordingly, the revision petition was allowed. The order passed by the Sessions Judge was set aside as without jurisdiction. Therefore, the appellant has challenged the acquittal by the trial court i.e., ACMM Court. Therefore, in view of the provision of law the appeal lies to this Court against the acquittal under Section 378(4) of the Criminal Procedure Code...."

“...This Court has come across these types of proceedings wherein the Session Courts are entertaining the appeal against acquittal in Negotiable Instruments Act cases and proceedings in this case shows that the matter is of the year 2008. Two times the Sessions Court entertained the appeal without jurisdiction against the order of acquittal in view of the provisions of Section 378(4) of the Cr.P.C.

Therefore, the Registrar (Judicial) to bring to the notice of all the Session Courts regarding the jurisdiction of the court in entertaining the appeal against acquittal by the trial court arising out of the judgment of acquittal in Negotiable Instruments cases”.

Section 378(4) of Criminal Procedure Code, 1973
reads as below:

“378. Appeal in case of acquittal.—

(1) xxx

(2) xxx

(3) xxx

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.”

As such, in respect of an appeal arising out of an order of acquittal under Negotiable Instrument Act, the complainant can challenge it only before the High Court as per Section 378(4) of Cr.P.C after obtaining special leave to appeal, and not before the Session Court.

In view of the above, all the Presiding Officers of the Session Courts in the State are hereby directed to strictly follow the provisions of Code of Criminal Procedure, 1973 and more so, to bear in mind Section 378(4), regarding jurisdiction to entertain the appeal against acquittal arising out of the judgment in Negotiable Instruments cases. Any lapse in this regard will be viewed seriously.

BY ORDER OF THE HON'BLE CHIEF JUSTICE

Sd/-
(M.CHANDRASHEKAR REDDY)
REGISTRAR (JUDICIAL)

To:

1. The Additional Registrar General, High Court of Karnataka, Benches at Dharwad and Kalaburagi
2. The Central Project Co-ordinator with a request to web host the Circular
3. P.S. to Hon'ble the Chief Justice.
4. All the Private Secretaries to Hon'ble Judges
5. The Director, Karnataka Judicial Academy, Bengaluru.
6. The Assistant Registrar, District Judicial Administration-I Branch (DJA-I), High Court Building, Bengaluru - **with a request to circulate the same to all the Presiding Officers of the Sessions Court in the State.**
7. Office Copy.