



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO. 48 OF 2024

**ABDUL RAHIM ABDUL KARIM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. S. K. Chavan, Advocate for Applicant

Mr. S. M. Ganachari, APP for Respondent No.1 - State

Mr. Arvind S. Deshmukh, Advocate for Respondent Nos. 2 to 6

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 10 September, 2026

PER COURT :-

1. Not on board. Upon mentioning, taken on board.
2. By the present application under Section 378 of the Code of Criminal Procedure, the applicant prays for leave to file an appeal against judgment and order of acquittal passed by the trial Court.
3. Considering the above position of law laid down by the Hon'ble Supreme Court in the case of M/s Celestium Financial Vs. A. Gnanasekaran and Ors, 2025 SCC OnLine SC 1320, the

learned counsel appearing for the applicant submitted that under proviso to Section 372 of the Code of Criminal Procedure, since the victim has a right to prefer an appeal against the order passed by the Court acquitting the accused or convicting accused for lesser offence or imposing inadequate compensation, such appeal shall lie to the Court to which the appeal ordinarily lies against the order of conviction. In view of said proviso, learned counsel prays that this matter be transferred to the concerned District and Sessions Court for its disposal in accordance with law.

4. In that view of the matter and considering the observations of the Hon'ble Supreme Court in the case referred above, this matter is required to be transferred for its disposal to the concerned District Court. Hence, the following order:-

ORDER

- (i) The present proceedings be transferred to the concerned District and Sessions Court. Learned Registrar (Judicial) of this Court to take further necessary action for transferring these matters to the concerned District and Sessions Court, immediately.

- (ii) The learned Trial Court to whom this matter will be assigned, after registering it, shall issue notice to the concerned parties, and thereafter, proceed further with the matter in accordance with law.
- (iii) The concerned Trial Court shall treat this matter as an appeal under proviso to Section 372 of the Code of Criminal Procedure as per the observations of the Hon'ble Supreme Court in the case of *Celestium Financial* (supra).
- (iv) Learned District and Sessions Judge to exclude the period spent in prosecuting instant application before this Court while calculating the period of limitation.

[ABHAY S. WAGHWASE, J.]

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