IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 341 OF 2012

SUPRIYA PRAMOD JAWARE
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Date: 2026.10.09 20:40:40 +0530

1. Shivshankar Shripal Tiwari,
Aged about 53 years, Occ. Business,
Residing at Flat No.190, S.No.29,
Pradhikaran, Nigadi, Pune.

2. Radhyeshyam Rameshwar Mishra,
Aged about 44 years, Occ. Service,
Residing at Samarth Heights,
R.H. 59, B/12, Sambhaji Nagar,
Chinchwad, Pune.

3. Ajay Singh Shivramsingh Chauhan,
Aged about 46 years, occu. Service,
Residing at G/4, Plot No.57,
Shanti Rakshak Society,
Yerwada, Pune. … Petitioners.

V/s.

The State of Maharashtra
Thru. Samarth Police Station, Pune. … Respondent.

Mr.B.P. Pandey i/b. Vikas B Pandey for the Petitioners.
Ms.Megha Bajoria, APP for the Respondent-State.

CORAM : RANJITSINHA RAJA BHONSALE, J.

RESERVED ON : 9th JULY 2026.

PRONOUNCED ON : 6th OCTOBER 2026.

JUDGMENT: -

1. By the present Petition, filed under Article 227 of the Constitution of India, the Petitioners seek to quash and set aside the order

dated 10th June 2011 passed by the learned Sessions Judge, Pune in Criminal Appeal No.56/2009 whereby the Petitioners challenge to the maintainability of the Criminal Appeal No.56/2009 was dismissed.

2. Heard, Mr. B. P. Pandey, learned Advocate for the Petitioners and Ms. Megha Bajori, learned APP for Respondent-State.

3. Briefly, the facts relevant to the present case are as under:

3.1. On 2nd August 2005, the original Complainant filed complaint with Samarth Police Station, Pune for the offences punishable under sections 353, 506(1), 504 read with section 34 of the Indian Penal Code (for short "IPC"). When the complaint was filed, the offence, under Section 353 of IPC was cognizable and bailable. The complaint was registered as CR No.150/2005.

3.2. On 23rd June 2006, as per the Amendment Act, 2005 (25 of 2005), amendment was carried out in section 378(1) of the CrPC. Under the Amendment Act, Section 378(1) of the CrPC was amended, providing that the District Magistrate may, direct the Public Prosecutor to present an appeal to the Court of Sessions from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence. By the amendment, offence under section 353 of IPC was made non-bailable.

3.3. By order dated 22nd October 2008, the Judicial Magistrate First Class, Court No.1, Pune acquitted all the accused/ Petitioners.

3.4. Considering the amended provision, the State on 10th February 2009, filed an appeal under section 378(1)(a) of CrPC being Criminal Appeal No.56/2009 before the Sessions Court, Pune against the order of acquittal dated 22nd October 2008.

3.5. On 20th September 2010, the Petitioners preferred an application in the Criminal Appeal No.56/2009 seeking dismissal of the said appeal interalia contending that, the Appeal was not maintainable. A reply was filed by the State. On 10th June 2011, the learned Sessions Judge dismissed the said application. The Order dated 10th June 2011 is challenged by way of this Petition. Pursuant to the Order dated 16th March 2012 and with the consent of the parties the matter is heard finally.

4. This Court by order dated 16th March 2012, passed in this Petition, while directing that the present Petition be placed for final disposal at the stage of admission, stayed the proceedings in Criminal Appeal No.56 of 2009 pending before the Sessions Court. Pursuant to the Order dated 16th March 2012 and with the consent of the parties the matter is heard finally.

5. Mr. Pandey, the learned Advocate for the Petitioners submitted that: -

5.1. The Petitioners were acquitted by order dated 22nd October 2008 and on 10th February 2009, the State Government filed an appeal against

the said order of acquittal before the Sessions Court, Pune. The said appeal was admitted on 19th December 2009.

5.2. By the Amendment Act, 2005 (25 of 2005), the offence under section 353 of the IPC was made non-bailable with effect from 23rd June 2006. In view thereof, the appeal could not have been entertained and ought to have been dismissed.

5.3 The impugned Order does not take into consideration the fact that the alleged offence i.e. Section 353 of the IPC when committed was a bailable offence and was made non-bailable only with effect from 23rd June 2006. In that view of the facts, the appeal against the order of acquittal ought to have been before the High Court and not before the Sessions Court.

5.4 It was therefore prayed that the order dated 10th June 2011 passed by the Sessions Court, Pune rejecting the application of the Petitioner be quashed and set aside and the application of the Petitioners be allowed.

6. Ms. Megha Bajoria, the learned A.P.P. appearing for the Respondent- State submitted that: -

6.1. When the offence was registered on 2nd August 2005, the said offence under section 353 of the IPC was cognizable and bailable. Vide the amendment, on 23rd June 2006, the said offence has become cognizable

and non-bailable. As per the Amendment Act, the appeal was correctly filed before the Sessions Court on 10th February 2009.

6.2. The contention of the Petitioners that, while considering the appeal under section 378(1) of Cr.P.C., the District Magistrate was not having any power to give any direction to the Public Prosecutor to present the appeal before the Sessions Court against the order of acquittal since the offence then was cognizable and bailable, is not correct. What is amended is only the procedure i.e. the forum before whom the appeal is to be filed is changed. It is only a procedural aspects of the matter.

6.3. The appeal was filled as per the directions of the District Magistrate as per the procedural law. In any event, the procedural aspect of filing of appeal is governed by the amended Section 378(1)(a) of the CrPC which was prevailing on the date of filing of the appeal. Hence, the State has correctly filed an appeal and the present Petition ought to be dismissed.

7. Perused the entire record. Before adverting to the facts of the matter, it would be useful to reproduce and state Section 378 of the CrPC before and after the Amendment Act 25 of 2005.

7.1. Section 378 of CrPC before amendment dated 23rd June 2006 read as under:

"378. Appeal in case of acquittal

(1) Save as otherwise provided in sub-section (2) and subject to the provisions of sub-section (3) and (5), the State Government may in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any court other than a High Court or an order of acquittal passed by the Court of Session in revision.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act. 1946 (25 of 1946), or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub-section (3), to the High Court from the order of acquittal.

(3) No appeal under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(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.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

7.2. Section 378 of the CrPC after amendment with effect from 23rd June 2006 reads as under:

*"**378. Appeal in case of acquittal.** - (1) Save as otherwise provided in sub-section (2), and subject to the provisions of sub-sections (3) and (5), -*

(a) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (25 of 1946) or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may, subject to the provisions of sub-section (3), also direct the Public Prosecutor to present an appeal-

(a) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(b) to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court not being an order under clause (a) or an order of acquittal passed by the Court of Session in revision.

(3) No appeal to the High Court under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(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.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

> *(6) If in any case, the application under sub-section (4) for the grant of special leave, to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2)."*

8. Before proceeding to consider the aspects of the amendment, it is necessary to refer to certain relevant and important judgments on the issue involved in the present matter

8.1. This Court, by its order dated 17th November 2006 passed in Criminal Appeal No. 2937 of 2006, in the case of *State of Maharashtra Vs. Hanmant Prabhakar Waidande and Ors.*, while dealing with the Amendment to Section 378 of the CrPC in paragraph 6 and 7 has held as under:

> *"6. At this stage, it will be necessary to refer to the decision of the Apex Court in Case of Maria Cristina De Souza Sodder and Ors. v. Amria Zurana Pereira Pinto and Ors. . The said case before the Apex Court arose out of a suit filed in the year 1960 under the Portuguese Civil Procedure Code by the first and Second Respondents against the Appellants. The suit was decreed in favour of the Respondents in the year 1968. The Appellants preferred an Appeal to the Court of Judicial Commissioner against the decree. During the pendency of the suit, the Code of Civil Procedure, 1908 with the repeal of the Portuguese Civil Code was extended to the territories of Goa, Daman and Diu in the year 1966. Simultaneously, Goa, Daman and Diu Civil Courts Act, 1960 came into force. Under the said Act, an Appeal against the decree was provided before the Court of Judicial Commissioner. An objection was raised that the Appeal was not preferred in proper court, by pointing out that under the provisions of Portuguese Code, the Appeal was required to be filed in the Court which decided the suit. The contention was that since the right of appeal was conferred by the Portuguese Code, even the forum of Appeal was also governed by the Portuguese Code. The Apex Court dealt with the said contention as under:*

> *5...It is no doubt well settled that the right of appeal is a substantive right and it gets vested in a litigant no sooner the lis is commenced in the Court of the first instance, and such right or any remedy in respect thereof will not be affected by any repeal of the enactment conferring such right unless the repealing enactment either expressly or by necessary implication takes away such right or remedy in respect thereof. This position has been made clear by clauses (b) and (c) of the proviso to Section 4 of the Central Act XXX of 1965 which substantially correspond to clauses (c) and (e) of Section 6 of the General Clauses Act, 1897. This position has also been settled by the decisions of the Privy Council and this Court (vide The Colonial Sugar Refining Company Ltd. v. Irving and Garikapatti Veerya V.N. Subbiah Choudhury but the forum where such appeal can be lodged is indubitably a procedural matter and, therefore, the appeal, the right to which has arisen under a repealed Act, will have to be lodged in a forum provided for by the repealing Act. That the forum of appeal, and also the limitation for it, are matters pertaining to procedural law will be clear from the following passage appearing at page 462 of Salmonds Jurisprudence (12th Edn.) Whether I have a right to recover certain property is a question of substantive law, for the determination and the protection of such rights are among the ends of the administration of justice; but in what courts and within what time I must institute proceedings are questions of procedural law, for they relate merely to the modes in which the courts fulfil their functions.*

It is true that under clause (c) of the proviso to Section 4 of Central act XXX of 1965 (which corresponds to Section 6(e) of the Central Clauses Act, 1897) it is provided that a remedy or legal proceeding in respect of a vested right like a right to an appeal may be instituted, continued or enforced as if this Act (meaning the repealing Act) had not been passed. But this provision merely saves the remedy or legal proceeding in respect of such vested right which it is open to the litigant to adopt notwithstanding the repeal but this provision has nothing to do with the forum where the remedy or legal proceeding has to be pursued. If the repealing Act provides new forum where the remedy or the legal proceeding in respect of such vested right can be pursued after the repeal, the forum must be as provided in the repealing Act...."

7. *Therefore, in view of what is held by the Apex Court, the*

Appeals against acquittal filed by the State on or after 23rd June 2006 against the orders covered by Clause (a) of Sub section 1 of Section 378 which are passed before 23rd June 2006 will lie to the court of Sessions. The reason being that by the Amendment to the said Code, the forum of appeal has undergone a change. It must be noted here that as per clause (a) of Sub section 1 of Section 378 (as amended), the District Magistrate has been empowered to direct the Public Prosecutor to present an Appeal to the Court of Session."

8.2. It would be useful to refer to the judgment of the Division Bench of the Gujarat High Court in Criminal Reference No. 5 of 2008, *Suo Motu V. State of Gujarat*, decided on 24th October 2008. The questions which were dealt with and addressed by the Gujarat High Court were as under:

*"**2.** Thus, in this question, there are three questions that are required to be addressed to by this Court: -*

(i) Whether in view of the amendment made in sub-section (1) of Section 378 of the Code of Criminal Procedure, 1973, specially, in view of clause (a) of sub-section (1) of Section 378, appeals against acquittal recorded by a Magistrate, pending consideration after grant of leave, can be heard and decided by the High Court or are required to be sent back to the Sessions Court for their disposal in accordance with law?

(ii) Whether application for grant of leave wherein leave to file appeal is yet not granted or criminal appeals, wherein leave under Section 378(3) has not been granted, would continue to be heard by the High Court or such matters are required to be sent to the Sessions Court? And

(iii) In all such cases, whether leave to file appeal would not be required in view of language of Section 378(1)(a) of the Code of Criminal Procedure?"

The Hon'ble Gujarat High Court after considering the provisions of Section 378 of the CrPC, the object and effect of the amendment to the CrPC vide Amendment Act 2005 (hereinafter referred to as Amendment Act) which

came into effect on 23rd June 2006 has made the following observation as under:

> *"**6.1** Sub-section (1), as it stood prior to the amendment provided that the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than High Court or an order of acquittal passed by the Court of Sessions in revision. By virtue of the amendment in sub-section (1), now it is provided that, where an order of acquittal is passed by a Magistrate in respect of a cognizable and non-bailable offence, the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Sessions and where an original or appellate order of acquittal is passed by any Court other than High Court, not being an order under clause (a) or an order of acquittal passed by Court of Sessions in revision, the State Government may direct the Public Prosecutor to present an appeal to the High Court."*
>
> *"**9.** ..... In order to understand why the amendment is effected, it would be appropriate to go to the statement of reasons and objects. What is found therein can be quoted thus :-*
>
> > *"In order to guard against the arbitrary exercise of power and to reduce reckless acquittals, section 378 has been amended to provide that an appeal against an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence filed on a police report would lie to the Court of Session, and the District Magistrate will be authorized to direct the Public Prosecutor to file such appeals. In respect of other cases filed on a police report, an appeal against an order of acquittal passed by any Court other than the High Court should lie only to the High Court and the authority to Direct the Public Prosecutor to present an appeal shall continue to be with the State Government."*
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> ***11.** In view of the above situation, we are of the view that when the Amending Act does not make any provision for its retrospective applicability, it would not be proper to read so and, thereby, transfer the cases presented to the High Court before 23rd June, 2006, the day on which the amended provision came into force. The amending provision also does not provide for transfer of such pending proceedings from the High Court to the Court of Sessions from the date of the amended section coming*

into force.

12.3 *The amendment would only mean that from the date it came into force, appeals against order of acquittal by a Magistrate, in case of cognizable and non-cognizable offence, can be preferred before the Sessions Court. Differently put, the amendment invests the Sessions Court with such powers prospectively. The legislature can reasonably be inferred to have intended that the appeals preferred before the stipulated date to be heard and decided by the High Court."*

15. *In view of the above discussion, we answer the questions as under: -*

(1) Appeals against acquittal recorded by the Magistrate, pending consideration after grant of leave, can be and are required to be heard and decided by High Court in view of amendment made in sub-section (1) of Section 378 and are not required to be sent to the Court of Sessions for disposal, if they are filed before 23rd June, 2006. There is no question of hearing those appeals which are filed before 23.06.2006, where the applications for grant of leave to file appeal are not granted. Those Criminal Appeals wherein leave under Section 378(3) is yet not granted are required to be heard and decided by this Court, if they are preferred before 23rd June, 2006 and leave to file appeal would not be required in cases where appeals are preferred before Sessions Court or are transferred to Sessions Court.

16. *In view of the questions answered by us as above, a corollary would follow that all appeals which are preferred on or after 23rd June, 2006 against acquittal recorded by a Magistrate in respect of cognizable and non-bailable offences cannot be entertained by this Court. The appeals, therefore, will have to be returned to the appellants along with certified copies, if any, for presentation before appropriate forum. The reference stands disposed of accordingly."*

8.3. This Court, in Criminal Appeal No. 294 of 1996 in the case of *State of Maharashtra Vs. Vijay Waman Patil and Ors.*, dated 17th February 2009, in relation to the amendment of Section 378 of CrPC, after noting that, there was a conflict between two decisions passed by this Court in the

case of *State of Maharashtra Vs. Ramjan* and in the case of *State of Maharashtra Vs. Hanmant Prabhakar Waidande* thought in appropriate to, refer the matter to the larger bench to decide the issue of applicability of the amended provisions of Section 378(1)(a) of CrPC. The Single Judge Bench of this Court, while referring the matter to the larger bench, in paragraph 11, made the following observations :

> *"**11.** Apparently, there is a conflict in the aforesaid two decisions of this Court, referred to in paragraph 3 above. It appears to me that appeals/applications for leave pending in this Court as on 23rd June 2006 in this Court will not be affected by the amendment to sub-section 1 of section 378 of the said Code. In my view, the issue of applicability of amended provision of sub section 1 of section 378 of the said Code can be more advantageously heard by a larger bench. The following question needs to be decided by a larger bench:*
>
> > *".Whether the amendment to sub section 1 of section 378 of the Code of Criminal Procedure, 1973 made by the Criminal Procedure Code (Amendment) Act, 2005 will apply to the pending appeals against acquittal/applications for leave filed by the State prior to 23rd June 2006 for challenging orders of acquittal passed by a Magistrate in respect of cognizable and non bailable offences?"*

8.4. Answering the reference, the Division Bench of this Court, in the case of *State of Maharashtra Vs. Vijay Waman Patil and Ors.,* reported in *2009 SCC OnLine Bom 944* by Order dated 9th July 2009 in paragraph 27 observed thus:

> *"**27.** In the result, the Reference is answered as under: —*
> *(a) Section 378(1) as amended by the Cr.P.C. (Amendment) Act, 2005 will not apply to appeals duly filed and entertained prior to the date of the Amendment Act coming into force i.e. 23rd June 2006.*
> *(b) Therefore, all appeals against acquittals filed and*

entertained prior to 23rd June 2006 can be heard and disposed of by this Court;
(c) All applications seeking leave to file an appeal against the order of acquittal, passed prior to 23rd June 2006 by the Magistrate in respect of cognizable and non-bailable offences can also be heard and disposed of by this Court provided such Applications are duly filed prior to 23rd June 2006;
(d) All pending applications and appeals be placed before the appropriate courts as per Roster for disposal in accordance with law.
(e) Reference is answered accordingly."

9. On a consideration of the aforenoted Judgments, and more particularly the judgment of this Court passed in the reference made, in the case of *State of Maharashtra Vs. Vijay Waman Patil (supra)* it is clearly lays down that, the amended Section 378(1)(a) of CrPC would not apply to the appeals/applications seeking leave filed under the unamended Section 378 of CrPC prior to the date of the Amendment Act coming into force i.e. 23rd June 2006. All appeals filed and entertained before 23rd June 2006 would be heard and disposed off by this Court.

10. In the present case, the relevant observations of the Sessions Court, Pune as contained in the order dated 10th June 2011 rejecting the application of the Petitioners read thus:

> *"3] The appellant/State has filed reply to the said application vide exh.14, wherein it has denied all the contentions raised by the respondent in the application. It has reiterated the offence for which respondents are charged and tried are under Section 353, 506 read with Section 34 of the Indian Penal Code. Section 353 is non-bailable. According to Section 378(1)(a) District Magistrate has directed to present appeal to the Court of Session from the order of acquittal passed by*

Magistrate in respect of cognizable and non-bailable offence. This is rule is clearly applicable in respect of Section 353 and, therefore, it has prayed for rejection of the application.

4] After listening to the submissions of the learned Advocate for the respondent, I find it desirable to go through sub-section 3, 4 and 5 of Section 378. Sub-section 3 reads as under:

(No appeal to the High Court) under sub-section 1 and sub-section 2 shall be entertained except in leave of the High Court.

5] Thus, it is crystal clear that in order to file appeal in High Court compliance of Section 3 is required. So far as preferring appeal against the order of acquittal passed by Magistrate, District Magistrate or Collector can issue direction thereto in consonance with Section 378(1)(a) Cr.P.C. Hence, on this premise the application finds to be devoid of merit. Hence, application is rejected."

11. Perusal of the statements of objects and reasons of the Amendment Act would make it clear that, the intention of the amendment is to make available two forums for the litigant and to ensure that only one Court is not burdened with the hearing of the Appeals against the acquittal. The intention of the amendment Act appears to be that, the High Court being the highest Court of the State is not to be approached in all matters where the acquittal can be effectively questioned and addressed in a Court of Sessions, which is superior to that of the Court of the Magistrate. It would also pertinent and relevant to note here that, what the Amendment Act has done is that it has effected a change in the procedural matters. No right of the litigant/aggrieved party has been withdrawn or affected.

12. Considering the law as laid down by the aforenoted judgments and the Amendment Act of 25 of 2005, it is clear that, the amendment does not intend or make any provision for making the applicability of the amended section retrospective nor is there any provision or clause which deals with the transfer of appeals which were pending when the said amendment came into force. There is no saving proviso in the said amendment. It is therefore clear that, the amendment of 23rd June 2006 is prospective and that the order of acquittal passed by the Magistrate in respect of a cognizable and non-bailable offence is required to be challenged under Section 378(1)(a) before the Sessions Court and no appeal in that behalf can be filed before this Court. It is clear that, the amendment is prospective and now the jurisdiction of filing an Appeal against the acquittal in an order passed by the Magistrate vests with the Sessions Court. The statute now permits that the appeal can only be filed before the Sessions Court. The amendment provides procedural remedies to the State Government to question the acquittal order passed by the Magistrate before the Court of Sessions.

13. It is necessary to note that, by way of the amendment what was changed was only the forum before whom the appeal could have been filed. This was a change in only the procedural law. The amendment provided that very acquittal order is passed by a Magistrate in respect of

cognizable and non-bailable offence, the Appeal would lie to the Court of Sessions and whereas the case if the order of acquittal is passed by the Court other than High Court either in its original or appellate jurisdiction or by a Court of Sessions in revision or appeal can be preferred to the High Court. No litigant has any vested right as regards procedural law so as to choose the forum of appeal. The Amendment Act only changes the forum and does not disturb or take away any substantive right of appeal. The amendment only makes a change in the procedural law. Even if the forum of appeal is changed by the amendment, all contentions which were otherwise available to the Petitioner would also be available and can be raised in the Appeal before the learned Sessions Court.

14. As regards the argument that compliance of sub-section (3) and sub-section (5) of Section 378 is required to be done and leave of the High Court is required to file the present Appeal, is an argument which is made to be rejected. After the amendment, Section 378(1)(a) clearly provides that, as against an order of acquittal in a cognizable and non-bailable offence, an appeal shall lie to the Sessions Court. Section 378(1)(b) provides that, the State Government may, in a case, direct the Public Prosecutor to present an Appeal to the High Court from an original or appellate order of an acquittal passed by any Court other than the High Court, not being an order under clause (a), or an order of acquittal by the

Court of Sessions in revision. Clause (b) of sub-section (1) of Section 378 clearly excludes the order which is appealable under clause (a) of sub-section (1) of Section 378. By the said exclusion, sub-section (3) of Section 378 would not be applicable in an appeal which is filed under Section 378(1)(a) of the CrPC. Sub-section 4 and 5 deal with an Appeal instituted before the High Court. The said Appeal is clearly an appeal which is filed under Section 378(1)(b) of the CrPC and not an appeal under Section 378(1)(a). It cannot be the intention of the legislature, while bringing in the Amendment Act that, for an appeal to be filed before the Sessions Court, leave of the High Court of the State would be required. The said interpretation if accepted would lead to an absurdity.

15. The record indicates that, in the present matter compliance with Section 378(1)(a) has been made, inasmuch as the District Magistrate has issued sanction order to the District Government Public Prosecutor Pune on 27th January 2009 pursuant to which the Appeal was filed before the Sessions Court.

16. Considering the facts of the present case and law laid down by this Court, I am of the considered opinion that no case is made out for interfering with the Order dated 10th June 2012 passed by the Additional Sessions Judge on Order below Exhibit-13 in Criminal Appeal No. 56 of 2009.

17. In view thereof, the present Petition is dismissed.

18. The Criminal Appeal is of the year 2009. The learned Additional Sessions Judge, Pune, is therefore requested to consider and dispose of the Appeal as expeditiously as possible.

(RANJITSINHA RAJA BHONSALE, J.)