

HIGH COURT OF CHHATTISGARH, BILASPURCriminal Revision No.741 of 2015

1. Satish Rangari, S/o late Puran Lal Rangari, aged about 43 years.
2. Dinesh Rangari, S/o late Puran Lal Rangari, aged about 36 years.
3. Nidhi Rangari, W/o Dinesh Rangari, aged about 32 years.
4. Smt. Chanda Rangari, W/o late Puran Lal Rangari, aged about 65 years.
5. Smt. Meera Damale, W/o Harinder Damle, aged about 45 years.

All R/o Vindhyavasini Ward Dhamtari, Towards Easter side of Boys School, Colony, Dhamtari, District Dhamtari (C.G.)

6. Sujeet Rangari, S/o late Puran Lal Rangari, aged about 40 years.
7. Dipika Rangari, W/o Sujeet Rangari, aged about 27 years.

No.6 & 7 are R/o Forest Colony, Doundilohara, District Balod (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Police Station Dhamtari, District Dhamtari (C.G.)

---- Non-applicant

For Applicants:	Mrs. Hamida Siddiqui, Advocate.
For Non-applicant:	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

08/09/2015

1. Heard on admission.
2. Present applicants were acquitted by the Chief Judicial

Magistrate, Dhamtari in Criminal Case No.1052/2013 on 30-9-2014. Feeling aggrieved against the judgment of acquittal, the State preferred appeal under Section 374 of the CrPC. Present applicants objected the appeal by filing an application that the appeal is not maintainable as the procedure prescribed has not been followed. The appellate Court by its impugned order rejected the same holding that appeal has already been admitted for hearing and the order admitting appeal cannot be reviewed in the light of provisions contained in the Code of Criminal Procedure, 1973 against which this revision has been preferred.

3. Mrs. Hamida Siddiqui, learned counsel appearing for the applicants, would submit that against the order of acquittal, the procedure followed for filing appeal by the State has not been adopted and permission from the District Magistrate has not been taken till 26-12-2014, as such, the appeal as framed and filed was not maintainable.
4. It is not in dispute that against the order of acquittal, appeal is maintainable under Section 378 (1) (a) of the CrPC before the Court of Sessions.
5. Section 378 (1) (a) of the CrPC 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 Sessions from an order of acquittal passed by a Magistrate in respect of a cognizable

and non-bailable offence;”

6. It is well settled that mere mentioning wrong provision of law, the Court or Authority would not be denuded to its authority to exercise requisite jurisdiction, which it has. Following observation of the Supreme Court in the case of **T. Nagappa v. Y.R. Muralidhar**¹ is pertinent: -

“11.It is now a well settled principle of law that non-mentioning or wrong mentioning of provision of law would not be of any relevance, if the Court had the requisite jurisdiction to pass an order.”

7. Keeping in view the fact that appeal was clearly maintainable before the Court of Sessions under Section 378 (1) (a) of the CrPC, mere mentioning of wrong provision would not take away the jurisdiction of the appellate Court, thus, the order passed by the learned Additional Sessions Judge rejecting the application for dismissal of appeal, which is a discretionary order, no interference is warranted in exercise of revisional jurisdiction under Section 397 read with Section 401 of the CrPC.
8. The revision deserves to be and is accordingly dismissed at the admission stage itself without notice to the other side.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

1 AIR 2008 SC 2010