

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3477 OF 2014
WITH
CRIMINAL APPLICATION NO.3476 OF 2014

Mahadeo s/o Narayan Wagh,
Age-31 years, Occu:Agril.,
R/o-Sakegaon-Shivar,
Tq-Pathardi, Dist-Ahmednagar.

...APPLICANT

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...
Mr.B.S. Shinde Advocate h/f. Mr. V.P. Latange
Advocate for Applicant.
Mr. B.L. Dhas, A.P.P. for Respondent No.1.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 10TH MARCH, 2015

ORDER :

1. Heard learned counsel for Applicant. The
learned A.P.P. accepts notice on behalf of the
Respondent State in the Application for delay as

well as Criminal Application No.3476 of 2014.

2. The perusal of the impugned order of acquittal against which Criminal Application No.3476 of 2014 has been tendered, was passed in State Case. Considered the present Application against acquittal with delay condonation Application has been filed by victim Mahadeo Narayan Wagh. The matter would fall under Proviso of Section 372 of the Code of Criminal Procedure. Section 372 of Code of Criminal Procedure reads as under:

"372. No appeal to lie unless otherwise provided.- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force:

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the

accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court."

3. Considering the above Proviso, had the J.M.F.C. convicted the Respondents- accused, the matter would have gone in Appeal to the Court of Sessions. As such, the present Application tendered in the High Court at the behest of the victim is not maintainable. Considering this, there is no point in issuing notice in the delay condonation Application to the Respondents- accused.

4. The learned counsel for the Applicant makes a request for permission to withdraw the Delay Condonation Application as well as the Leave Application, with liberty to move the Court of Sessions. Liberty granted.

5. For the aforesaid reasons, I pass following order:

O R D E R

(A). Criminal Application No.3477 of 2014 and Criminal Application No.3476 of 2014 stand disposed of as withdrawn by the Applicant, with liberty to move the appropriate Court for appropriate relief.

(B). The concerned Court, may take into consideration the time spent in litigating present Applications in the High Court.

[A.I.S.CHEEMA, J.]