

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [APPLN] NO.99 OF 2015

Prakash Shridhar Kokane

..Applicant

Versus

Ramesh Laxman Taldevkar and another

..Respondents

....

Mr. Rohit D. Joshi, for the Applicant.

Mr. A.R. Pati, APP, for the Respondent-State.

....

CORAM : A. R. JOSHI, J.

DATE : 13th JULY, 2015

P.C.

1. Heard learned Counsel for the applicant. In fact this is an application for condonation of delay of 80 days in preferring the appeal challenging the acquittal of the respondent in the matter of offence punishable under Sections 451, 447 and 427 of IPC. Said order of acquittal was passed by J.M.F.C. Dapoli on 16.5.2014. Said order was passed on a police case registered on the complaint of the present applicant as a defacto complainant. As the State had not preferred any appeal challenging acquittal, apparently the defacto complainant has preferred this appeal but strangely under the provisions of Section 378(4) of Cr.P.C.. and as such an application for leave to file appeal is filed along with present delay condonation application. As per the mandate

of law and as per the proviso to section 372 of Cr.P.C., the victim can prefer an appeal challenging acquittal of the accused in three contingencies which are mentioned in the proviso to said section. One of them is the acquittal of the accused. Further in view of the said provision, such appeal by a victim is to be entertained by the Sessions Court having jurisdiction over the area for which the challenge is to the order of J.M.F.C.. In that event, present proceedings cannot be entertained at the High Court level and the appeal as a matter of right can be entertained and filed before the concerned Sessions Court challenging the acquittal of the present respondent accused. Of course, this will be subject to the proof by the present applicant establishing that he is a victim contemplated by the provision of Section 372 of Cr.P.C..

2. In view of the above, present matter cannot be entertained here and accordingly disposed of with liberty to the applicant to take appropriate course of action as available under the law and specifically under Section 372 of Cr.P.C..

(A. R. JOSHI, J.)