

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.691 OF 2014

Asha Sanjay Padhye .. Applicant
Versus
Sanjay Murlidhar Padhye & ors .. Respondents

Mr.Tushar Pimple i/b Mr.PD.Dalvi, Advocate for the applicant.

Ms.Jayashri Akolkar, Advocate for respondents.

Mrs.M.R.Tidke, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 7th APRIL, 2015

P.C. :

1 This application has been filed, seeking condonation of delay in filing an application for leave to Appeal against the order of acquittal passed by the Judicial Magistrate First Class, Kolhapur in Regular Criminal Case No.266/08.

2 I find that the application is misconceived.

3 The said case was a case instituted upon police report. It was not a case instituted on a complaint. As such, the provisions of sub-section (4) of section 378 of the Code of Criminal Procedure have no application.

4 After hearing the learned counsel for the applicant, it appears that the applicant intends to file an Appeal in her capacity as the victim of the alleged offences. Indeed, in view of the proviso to section 372 of the Code, the applicant would be entitled to file an Appeal, but such Appeal would lie before the Court of Sessions.

5 It has been held by this Court ¹(majority view) that for such an appeal, no leave is necessary. It has also been held by this Court that for such an appeal by victim, no specific time limit has been prescribed. The fact remains that the present application is misconceived, and not maintainable.

6 The Application is rejected with the aforesaid observations.

(ABHAY M.THIPSAY, J)

1 Criminal Appeal Nos.991, 992, 331, 854 of 2011, decided on 22th June 2012