

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.228 OF 2014
IN
CRIMINAL APPEAL (ST.)NO.125 OF 2014
WITH
CRIMINAL APPEAL (ST.)NO.125 OF 2014**

SHRI A.S.POPHARE)...APPLICANT

V/s.

SHRI SANJAY BHATIYA AND ORS.)...RESPONDENTS

Shri K.M.Sangani, Advocate for the Applicant.

Shri B.B.Sharma, Advocate for Respondent No.1.

Smt.M.R.Tidke, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 26th OCTOBER 2015.

ORAL ORDER :

1 Heard Shri K.M.Sangani, the learned counsel for the applicant / appellant.

2 This appeal has been filed under the provisions of Section 341 of the Code of Criminal Procedure (Code) challenging the order dated 5th September 2013, passed by the Maharashtra

Administrative Tribunal (MAT), Mumbai, dismissing the applications filed by the applicant/appellant praying for initiation of an action against the respondents thereto, for having committed an offence punishable under Section 193 of the IPC, and thus, refusing to make a complaint under the provisions of Section 340 of the Code. Being aggrieved thereby, the applicant/appellant has filed the present appeal.

3 An appeal does lie from an order passed under the provisions of Section 340. Section 341 of the Code provides that, any person on whose application any court other than High court has refused to make a complaint under sub-section (1) or sub-section (2) of Section 340, or against whom such a complaint has been made by such court, *may appeal to the court to which such former court is subordinate within the meaning of sub-section(4) of Section 195*. Sub-section (4) of Section 195 of the Code lays down that, a court shall be *deemed to be subordinate to the court to which appeals ordinarily lie from the appealable decrees or sentences of such former court*.

4 No appeals lie from the final orders passed by the MAT to this court. As such, the MAT cannot be deemed to be subordinate to this court for the purposes of Section 341 of the Code.

5 The appeal from the said order, therefore, cannot lie to this court. As such, it cannot be entertained by this court.

6 The appeal is dismissed. It, however, be numbered.

7 Since I have considered the maintainability of the appeal, the application for condonation of delay is treated as having been allowed.

8 It is made clear that no decision on the merits of the matter has been taken, and it shall be open for the appellant to pursue any other remedy, as may be available to him in law, for the redressal of his grievance.

(ABHAY M. THIPSAY, J.)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment / Order.**