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*IN THE HIGH COURT OF JUDICATURE AT
BOMBAY*

CRIMINAL APPEALALTE JURISDICTION

*CRIMINAL APPLICATION No. 396 of 2015
IN
CRIMINAL APPEAL No. 829 of 2014.*

Hiranand Kimatram Aswani @ Dabbu ..Applicant/Appellant.

Vs

State of Maharashtra

..Respondent.

Mr Chetan Damre i/by Aniket Nikam for the Applicant.

Mr A.R. Patil, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 17th JUNE, 2015

P.C. :

1) Heard learned counsel for the applicant in this application for restoration of earlier dismissed Cri.Appeal No. 829 of 2014. Earlier proceeding is apparently filed under section 372 of Cr.PC. It appears that inadvertently and with erroneous belief application for leave to file appeal challenging the acquittal is also filed. Whatever it may be, the present application for restoration is

allowed and accordingly disposed of.

2) The original proceeding is restored and now it is held that it is an appeal challenging the acquittal of the respondent Nos. 2 and 3 for the offence under section 120-B read with section 115 of IPC read with section 34 of IPC and as such same is admitted as there is no question of asking leave when the appeal is preferred by the victim under proviso to Section 372 of Cr.P.C. Even this Court has held in another matter that the right vested with the victim is at par with that of the accused when the accused challenges his conviction by way of filing an appeal. As such this appeal is admitted.

3) Process under section 390 of Cr.P.C., be issued against the respondent Nos. 2 and 3.

4) Call for R and P

(A.R.JOSHI, J.)