

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.327 OF 2015

IN

CRIMINAL APPLICATION NO.269 OF 2014

Lata Ramesh More

.Applicant

V/s.

Ramesh Dinkar More & ors

.Respondents

Mr.Tapan Thatte, Advocate, for the Applicant
Mrs.Anamika Malhotra, APP, for the Respondent
No.3 - State

CORAM : A.R.JOSHI, J.

DATE : 11.06.2015

P.C.

. Heard learned counsel for the applicant in this application for restoration of earlier dismissed application for leave. For the grounds mentioned in the application, the said application is allowed. Even the delay caused in filing this application for restoration is also condoned. The original Cri. Appln.No.269 of 2014 which was dismissed in default vide order dated 24.11.2014 is restored to the file.

2. Heard learned counsel on the original Cri. Appln. No.269 of 2014 which is the application for leave to file an Appeal challenging the order of acquittal of the Appellate Court. Purportedly, the said leave application is filed under Section 378(4) of the Code of Criminal Procedure. In support of the submission that the original complainant in a private complaint has a right to file an Appeal challenging the acquittal order passed by the Appellate Court, learned counsel for the applicant relied on the decision in **K.H.Ganesh Rao v. H. Gopal**, reported in **2010 CRI.L.J.4755** which is the decision of the Division Bench of the Karnataka High Court. On this submission, learned APP stated that in fact, the scope of filing the Appeal challenging the order of acquittal passed by the 1st Appellate Court is only available under Section 378(1)(b) and under Section 378(2)(b) of the Code of Criminal

Procedure and this scope is not available under Sub-section 4 of Section 378 of the Code of Criminal Procedure, considering the plain reading of Section 378(4). On this, time is sought by both sides to find out more authorities, if any, on this subject.

3. As such, Cri.Appln.No.269 of 2014 be listed on 18.06.2015.

(A.R.JOSHI, J.)