

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

APPLICATION FOR LEAVE TO APPEAL(STATE) NO.140 OF 2014

The State of Maharashtra
(At the instance of MSEDCL
Police Station, Pune) ... **Applicant**
V/s.
Smt.Aarti Prakash Ghare ... **Respondent**

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Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A. M. THIPSAY J.

DATED : 9TH JANUARY, 2015

P.C.

The respondents were prosecuted on the allegation of having committed an offence punishable under section 138 of the Electricity Act, 2003. The trial resulted in their acquittal. The State of Maharashtra is aggrieved by the said order of acquittal and is, by the present application, seeking leave to file an appeal against the said order of acquittal.

2. I have heard Ms.Anamika Malhotra, the learned Additional Public Prosecutor in support of the application. I have gone through the impugned judgment, as also the grounds taken in the application for leave.

3. The primary reason that led to the acquittal of the

respondent is that according to the trial Court, the person who had lodged the First Information Report was not an authorized person. The learned Judge referred to the provisions of Section 151 of the Electricity Act, which provides for cognizance of the offence punishable under section 138 of the Electricity Act to be taken only on the complaint of one of the persons specified in the said Section. The learned Judge observed that at the time when the alleged offence was committed, Mr.Dabharde-Junior Engineer was not a person on whose complaint or report cognizance of the alleged offence could have been taken. The reasoning in that regard is found in paragraph 23 of the impugned judgment.

4. I am unable to see how the position of law, as observed by learned Judge in paragraph 23 of the impugned judgment, is incorrect.

5. Once this is so, it follows that the cognizance of the offence in question could have been taken. Though it is doubtful whether under such circumstances the proper final order disposing of the case would be of 'acquittal', still, in the circumstances, no interference is warranted.

5. Leave refused.

6. Application is rejected.

(A. M. THIPSAY J.)