

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALS] NO.202 OF 2014

The States of Maharashtra ..Applicant
Versus
Shahaji Dariba Bhosale
and others. ..Respondents

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

WITH
CRIMINAL APPLICATION NO.352 OF 2014
IN
CRIMINAL REVISION APPLICATION NO.328 OF 2014

WITH
CRIMINAL REVISION APPLICATION NO.328 OF 2014

Shri Pravin Subhash Bhore ..Applicant
Versus
Shahaji Dariba Bhosale
and others. ..Respondents.

CORAM : A. R. JOSHI, J.

DATE : 7th JULY, 2015

P.C.

1. In this matter, one application for leave to file appeal is preferred by the State and one Criminal Revision is preferred by the defacto complainant. In fact, the challenge in both the proceedings is to the acquittal of the respondent Nos.1 to 4 in

the matter of offences punishable under Sections 306 and 498A of IPC.

2. In fact the defacto complainant has a right to file appeal under proviso to Section 372 of Cr.P.C. challenging the acquittal of the respondents, without there being any application for leave even such an appeal is required to be admitted as a course as his right is equated with that of the accused while accused challenging the conviction order by way of appeal. In that situation, once the appeal of the defacto complainant is required to be admitted, there is nothing to hear the learned APP so as to make out a case for admission though it is so contemplated under Section 378(1) read with sub-section 3 of Section 378 of Cr.P.C..

3. However, in the present matter said earlier Revision Application No.328 of 2014 was dismissed for want of prosecution and as such Criminal Application No.352 of 2014 is preferred by the defacto complainant for restoration. In fact, Criminal Revision is required to be treated as an appeal and is required to be admitted as mentioned earlier. In view of this legal position, after hearing the learned Counsel for the original

complainant and also further hearing the learned APP for the State, the following order is passed :

:: O R D E R ::

- [i] Criminal Application No.352 of 2014 is allowed. Criminal Revision No.328 of 2014 is restored to the file and in fact the same is converted in Criminal Appeal and be renumbered by the office. Said appeal is admitted being appeal preferred under proviso to Section 372 of Cr.P.C. by the victim.
- [ii] In view of the admission of the appeal filed the victim, application for leave being ALS No.202 of 2014 is allowed. Appeal be numbered by the office. Appeal is also admitted. Process under Section 390 of Cr.P.C. be initiated against respondent Nos.1 to 4 with directions to the trial Court to release the respondents on bail in the sum of Rs.1000/- each. Call for R & P.

(A. R. JOSHI, J.)