

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

CRIMINAL APPEAL NO.880 OF 2015

Piyush S. Shah ..Appellant
V/s.
Milan R. Kamdar & Ors. .. Respondents

Ms.Nisha Agarwal i/by Mrs.Neeta Karnik,
for applicant/appellant.
Mrs.Anamika Malhotra, APP for State.

CORAM : A. R. JOSHI, J.

DATE : 11th SEPTEMBER, 2015.

P.C.

1. Heard learned counsel for the appellant. Though initially present matter is preferred as an application for leave to file appeal challenging the acquittal of the respondents in police case, this Court has held that the present matter to be treated as filed under proviso to section 372 of Cr.P.C. Present appellant is defacto complainant the first informant. As such apparently he can claim himself to be a victim. Secondly if the victim is entitled to prefer an appeal challenging acquittal, under proviso to section 372 of Cr.P.C. said appeal is required to be taken before concerned Sessions Court which is superior

to the JMFC Court which had passed impugned order of the case. In that view of the matter the present appeal cannot be maintained at High Court level. The appellant is required to go before the concerned Sessions Court, Thane. As such present matter is disposed of with liberty to the appellant to go before the appropriate forum. Needless to mention that the concerned Sessions Court, Thane shall consider any such appeal in accordance with law and mainly considering the fact that the appellant had taken time for filing the proceeding before the High Court and then he has approached the Sessions Court. Accordingly, present matter is disposed off.

(A. R. JOSHI, J)

CERTIFICATE

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