

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

APPLICATION FOR LEAVE TO APPEAL (PVT) NO.324 OF 2014

Ashpak Nasuruddin Munshi ... **Applicant**

V/s.

Hanif Jamadar & Ors. ... **Respondents**

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Mr.S.V.Sadavarte, Advocate for the Applicant.

Mrs.S.V.Gajare, APP for the Respondent/State.

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CORAM : ABHAY M. THIPSAY J.

DATED : 21ST APRIL 2015

P.C.

1. Though, vide prayer (b), the applicant prays that leave under Section 378 of the Code of Criminal Procedure be granted to him, and though submissions have been made before the Court on the basis that the impugned order is of acquittal, actually it turns out to be an order of discharge. There is no question of filing an appeal from the order of discharge.

2. At this stage, the learned counsel seeks permission to convert the application into an application for revision. However, ordinarily, as a matter of policy, this Court requires such Revision Applications to be filed before the Court of Sessions. There is no special reason for departing from the usual practice.

3. When this view is expressed, the learned counsel for the applicant seeks permission to withdraw the application, and states that applicant shall file an application for revision before the Court of Sessions. He however submits that appropriate direction may be given to the Court of Sessions, so that the application is entertained on merits, and not rejected on the question of bar of limitation.

4. The application is allowed to be withdrawn and stands dismissed as such, with a liberty to the applicant to make an application for revision, before the Court of Sessions.

5. In the event of such an application being filed, and condonation of delay being sought, the Court of Sessions shall, *inter alia*, take into consideration the period during which the present proceedings had been pending before this court.

(ABHAY M. THIPSAY J.)