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

CRIMINAL APPLICATION No. 408 of 2014

Sanjay Jagannath Mhatre ..Applicant.
Vs
Shivaji Ramji Koli and Anr ..Respondents.

Mr Prashant G. Karande, Adv. for the Applicant.
Mr A.R. Patil, APP for the State.
None for Respondent No.1.

CORAM : A.R.JOSHI,J

DATE : 30th JUNE, 2015

PC. :

1) Heard learned counsel for the applicant. Also heard learned APP for the State. In fact, the present proceeding is brought before this Court challenging the acquittal of the respondent No.1 in the matter of police case lodged under the Police Report filed by Mandva Police Station, Alibag, District Raigad. Respondent No.1 was acquitted of the offence punishable under sections 304-A, 279 of IPC and under section 134 and other allied offences under the Motor Vehicles act. Though apparently the present application for leave to file appeal is preferred purported to be u/s 378 of Cr.P.C., the acquittal is in police case and the applicant herein is original defacto complainant. At the most, he can consider himself as the victim as contemplated by proviso to Section 372 of Cr.P.C. and in that event the appeal by victim without there being any requirement of leave can lie before the appropriate Court. Now, the question is before

which forum said appeal can be entertained. Proviso to Section 372 of Cr.P.C. mandate in clear words to the following effect :

372. No appeal to lie unless otherwise provided. —

No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force :

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]

2) In view of this provision the appeal challenging the acquittal is required to be taken before the concerned Sessions Court having jurisdiction over the area and as such the present application is disposed of with liberty to the applicant to move the appropriate Sessions Court to file the appeal u/s 372 of Cr.P.C. Accordingly the present matter is disposed of.

(A.R.JOSHI, J.)