

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.223 OF 2014

Mrs. Lalita w/o Sudhakar Whatte,
Age-38 years, Occu:Social Work,
R/o-Kharola, Tq-Renapur, Dist-Latur.

...APPELLANT
(Orig. Complainant)

VERSUS

- 1) Naginabai w/o Bhimshankar Pimplae,
Age-Around 39 years, Occu:Household,
- 2) Usha w/o Bhanudas Bhosale,
Age-Around 33 years, Occu:Household,
- 3) Mainabai Trimbak Bhabade,
Age-Around 55 yerars, Occu:Household,
- 4) Dwarka Kishan Kagale,
Age-Around 43 years, Occu:Household,
- 5) Indubai Nivrutti Khale,
Age-Around 33 years, Occu:Household,
- 6) Lalita Sudhakar Jadhav,
Age-Around 48 years, Occu:Household,
- 7) Aruna Pandit Nalegave,
Age-Around 47 years, Occu:Household,
- 8) Prashant s/o Trimbak Bhabade,
Age-Around 31 years, Occu:Agri.,

9) Bhimashankar s/o Ramayya Pimpale,
Age-Around 50 years, Occu:Agri.,

All residing at Kharola, Tq-Renapur,
Dist-Latur,

10) The State of Maharashtra,
Through P.S.I. Renapur Police Station,
Renapur, Dist-Latur.

...RESPONDENTS

(Resp. Nos. 1 to 9 – Orig. Accused)

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Mr.Girish N. Kulkarni Advocate for Appellant.

Mr. S.G. Munde Advocate for Resp. Nos. 1 to 9.

Mr.B.V. Virdhe, A.P.P. for Respondent No.10.

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CORAM: A.I.S. CHEEMA, J.

DATE : 25TH JANUARY, 2016

ORDER :

1. This Appeal has been presented by original complainant claiming to be victim against the Judgment and order passed in R.C.C. No.98 of 2010 by J.M.F.C. The Respondents - accused have been acquitted.

2. Heard learned counsel for the Appellant, learned counsel for Respondents -accused as well

as learned A.P.P. for State. Perusal of the Judgment in R.C.C. No.98 of 2010 shows that the Respondents- accused were tried for offences punishable under Sections 143, 147, 148, 323, 506 read with 149 of the Indian Penal Code, 1860.

3. Section 372 of the Code of Criminal Procedure reads as under:

"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."

. It is apparent that had there been a conviction, the Appeal would lie before the Sessions Court. In that view of the matter, as per above Proviso, appeal by the victim would lie to the Sessions Court and not this Court.

4. The learned counsel for the Appellant - original complainant makes a request for permission to withdraw the present Appeal, with liberty to file appeal to the Sessions Court in proper format and to give time for the same. The learned counsel for Respondents - original accused does not controvert the request made.

5. For such reasons, the Criminal Appeal is disposed of as withdrawn, with liberty to the Appellant - original victim to file proper appeal in proper format before the Sessions Court, Latur, for which time is being given till 15th February 2016. If the Appeal is presented to the Sessions Court on or before 15th February 2016, the same be

registered and tried according to the law without raising the question of limitation. If it is subsequently presented, the present benefit relaxing time would not be available.

6. The parties are directed to appear before the Sessions Court, Latur on 22nd February 2016, if the Appellant presents the Appeal before the Sessions Court by 15th February 2016.

. Authenticated copy of this order be provided to the Appellant.

[A.I.S. CHEEMA, J.]

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