

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.239 OF 2016

Hemali Ramkrushna Bodkhe ... APPELLANT

VERSUS

The State of Maharashtra & others ... RESPONDENTS

.....
Shri S.N. Gaikwad, advocate for appellant
Shri R.V. Dasalkar, A.P.P. for respondent No.1/ State

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

DATED: 26th July, 2016.

ORAL ORDER :

1. The counsel for appellant and learned A.P.P. are heard. This appeal has been tendered against the orders of acquittal, passed by the Judicial Magistrate, First Class, Ashti in R.C.C. No.228/2009. On 12.7.2016, order was passed that the appellant needs to show how appeal is maintainable in view of Section 372 of the Code of Criminal Procedure.

2. Now the counsel for appellant states that, in view of

the proviso below Section 372, the appellant may have to move the Court of Sessions where appeal would lie had the Judicial Magistrate, First Class passed order of conviction. The counsel, on instructions, submits that, he may be given liberty to withdraw the appeal so that the appropriate appeal can be filed in the concerned Court of Sessions. The appeal is disposed of as withdrawn with liberty to the appellant - accused to file appeal to the concerned Court of Sessions.

3. This appeal was tendered in this Court on 12.4.2016. The period from 12.4.2016 till today may be favourably considered by the Court of Sessions at the time of calculating of limitation.

(A.I.S. CHEEMA, J.)

fmp/cr239.16