

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

CRIMINAL APPEAL NO. 258 OF 2016

Jhaverilal Hastimal bedmutha

..APPELLANT

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. Kailas B. Jadhav, Advocate for appellant.

Mrs. V.N. Patil (Jadhav), A.P.P. for Respondent No.1 - State.

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

DATED : 12th JULY, 2016

ORDER :

1. Heard learned Counsel for appellant/original complainant and learned A.P.P. for State.

2. The Judicial Magistrate First Class, Kopergaon by order dated 03rd February, 2016 passed in State case R.C.C. No. 175 of 2009 acquitted the accused. Had the J.M.F.C. convicted the accused, the appeal would lie to the Sessions Court. In this view of the matter, considering the proviso under Section 372 of the Code of Criminal Procedure, 1973, the present appeal by the original complainant-victim will not lie to this Court.

3. The learned Counsel for the appellant now seeks permission to withdraw the appeal. The appeal is allowed to be withdrawn with liberty to move to the concerned Court of Sessions. This appeal was tendered in this Court on 14th April, 2016. Time since that date till today may be considered favourably by the Sessions Court while considering the limitation.

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

SSD