

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.321 OF 2016

Santosh s/o Rukhmaji Virkar,
Age-44 years, Occu:Agril.,
R/o-At Post Ardhapur,
Tq-Ardhapur, Dist-Nanded.

...APPELLANT

VERSUS

- 1) Amol s/o Shivaji Gaikwad,
Age-23 years, Occu:Agril.,
R/o-Ruee (Dhanora),
Tq-Hadgaon, Dist-Nanded,
- 2) The State of Maharashtra,
Through Police Station Officer,
Police Station Hadgaon,
Dist-Nanded.

...RESPONDENTS

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Mr.Gajanan G. Kadam Advocate for Appellant.
Mrs.V.N. Patil - Jadhav, A.P.P. for
Respondent No.2.

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

DATE : 17TH JUNE, 2016

ORDER :

1. Heard learned counsel for the Appellant and

learned A.P.P. for State.

2. This Criminal Appeal has been tendered against acquittal. The Judgment of acquittal was passed by Assistant Sessions Judge, Nanded. Under Section 374(3) of the Code of Criminal Procedure, 1973 (Cr.P.C.), had the Assistant Sessions Judge convicted the accused, the Appeal would lie to the Court of Session. Now if this provision is read with Proviso below Section 372 of Cr.P.C., the victim would have a right of appeal to the Court to which an appeal ordinarily lies against the order of conviction. This being so, the present Appeal against acquittal in Judgment passed by the Assistant Sessions Judge, Nanded, would not be maintainable in this Court.

3. The learned counsel for the Appellant seeks permission to withdraw the Appeal with liberty to move the concerned Court of Session.

4. The Appeal is disposed of as withdrawn, with liberty as sought for.

5. This Appeal appears to have been filed in this court on 9th May 2016. The period between 9th May 2016 till today, may be favourably considered by the Court of Session at the time of calculating delay.

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

asb/JUN16