

CRIMINAL WRIT PETITION NO. 1100 OF 2015

VERSUS

Mr. M. V. Navandar, Advocate for the Petitioner.
Mr. N. R. Shaikh, Advocate for the Respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 16/06/2016

PER COURT :

1. The impugned order dated 20.04.2015 has been passed under Section 256 of the Code of Criminal Procedure on account of the continued absence of the complainant and his lawyer. I have considered the scope of Section 256 and the effect of dismissal of the complaint on account of the continued absence of Advocate and the complainant, which has resulted in the acquittal of the accused persons.

2. It has been held in the matter of **M/s. Hotel Bandra International Private Ltd. Vs. Mr. Brij Mehra and another, 2004 All MR (Criminal) 366** and in the matter of **Prema Ramanand Hattangadi Vs. State of Maharashtra and another, 2013 (1) BCR (Criminal) 338** that the dismissal of the complaint under Section 256 has led to the acquittal of the accused. In these matters, the aggrieved persons had preferred an application for seeking leave to file an appeal under section 378 (4) of the Code of Criminal Procedure.

3. In the light of the above, learned Advocate for the petitioner submits on instructions that the petitioner desires to withdrawn this petition so as to pursue the available remedy under Section 378 (4) of the Code of Criminal Procedure.

4. In the light of the above, leave to withdraw is granted for availing of a remedy under Section 378 (4) of the Code of Criminal Procedure. The time spent by the petitioner in this Court from

20.04.2015 till the passing of this order shall be considered by the appropriate forum while dealing with the application proposed to be filed by the petitioner.

5. It is clarified that this Court has not dealt with the merits of the matter and leave to withdraw would not tantamount to this Court having permitted the petitioner to file an appeal under Section 378 (4).

6. Both the learned Advocates fairly state that an amount Rs. 1500/- (Fifteen hundred), deposited in the Court could be donated to the Advocates' Association Bar Library, High Court, Aurangabad. The Registry to, therefore, transmit the said amount to the Advocates' Association Bar Library, High Court, Aurangabad.

(RAVINDRA V. GHUGE, J.)