

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPP) NO.1025/2015

IN

CRIMINAL APPEAL NO. 499/2015

(State of Maharashtra vs. Arun Nathuji Zatale and others)

&

CRIMINAL APPLICATION (APPA) NO.452/2015

IN

CRIMINAL APPEAL NO. /2015

(Janrao s/o Rodaji Manapure vs. State of Maharashtra and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Mr. S.S. Doiphode, APP for State
Mr. G.R.Sadar Advocate for respondent/accused
Mr. P.V. Kaore, Advocate for complainant -Janrao Manapure

CORAM: A.B.CHAUDHARI, J.

DATED : 18th January, 2016.

Heard.

Criminal Application No.1025/2015 in Criminal Appeal No. 499/2015 have been filed by the State of Maharashtra against the judgment and order dated 16th December, 2014 passed by learned J.M.F.C. Court No.1, Chandur Bazar, by which the respondents/non-applicants were acquitted of the charge punishable under section 324 r/ws. 34 and Section 341 of the Indian Penal Code.

The complainant- Janrao Manapure, through Advocate P.V. Kaore, had already filed an Appeal against the same judgment and order of acquittal along with an Application No.452/2015 for condonation of

delay in filing the Appeal.

Mr. G.R.Sadar, learned counsel for the respondents/non-applicants has raised a preliminary objection, which is taken on record, has argued that both these Appeals are not maintainable before this Court since Section 378 (1)(a) Cr.PC. provides that such an Appeal would lie before the Sessions Judge, pursuant to the amendment made to the said provision, even at the behest of the State; and so far as the complainant-Janrao represented by Mr Kaore, learned Advocate is concerned, the same would lie in accordance with the provisions of Section 372 of the Code (as amended).

I have examined the issue and find substance in what the respondents have contended about the maintainability. I find from the reading of those provisions, that both these Appeals should have been filed before the concerned Sessions Court. The issue about condonation of delay, if any, in both these Appeals will have to be kept open. In that view of the matter, I make the following order:

ORDER

1) Both the above-referred Appeals and Applications are ordered to be returned to the respective appellants for being presented to the concerned Court of Sessions Judge, within a period of fifteen days from today.

2) All the issues including the issue of limitation are kept open and the parties are at liberty to contest

those issues before the lower Court.

Order accordingly.

JUDGE

safare