

Rane

* 1/4 * WP-4857-2015 (SR.915)
Thursday, 24.8.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 59 OF 2016
(FOR AMENDMENT)

IN
WRIT PETITION NO. 4857 OF 2015

ALONGWITH
WRIT PETITION NO. 4857 OF 2015

Shri. Ajay S. Pophare	Applicant
V/s.	
Shri. Sanjay Bhatia and Ors.	Respondents

* * * * *

Mr. K.M. Sanghani, Advocate for the applicant.

Mr. V.B. Kondedeshmukh, Additional Public Prosecutor
for the State.

CORAM :-	R.M. SAVANT &
	SANDEEP K. SHINDE, JJ.
DATE :-	24TH AUGUST, 2017.

P.C. :-

1. The above Criminal Application has been filed for seeking amendment to the above writ petition. The above writ petition has been filed challenging an order

passed by a Learned Single Judge of this Court dated 26th October, 2015 in Criminal Appeal (St) No. 125 of 2014. By the said order, the Learned Single Judge has dismissed the Appeal on the ground that no such Appeal would lie before the Learned Single Judge.

2. The Learned Counsel appearing on behalf of the petitioner, Mr. Sanghani would justify the maintainability of the writ petition by relying upon the judgment of the Apex Court reported in **(1997) 3 Supreme Court Cases page 261, in the matter of L. Chandra Kumar V/s. Union of India and Ors.** In our view, the reliance on the said judgment is misplaced having regard to the challenge which is sought to be raised in the above petition which is to an order passed by the Learned Single Judge of this Court refusing to entertain the Appeal filed against an order passed by the Maharashtra Administrative Tribunal refusing to take cognizance of the complaint made by the petitioner for the offence punishable under

Section 193 of the Indian Penal Code. The judgment of the Apex Court in the case of *L. Chandrakumar* (supra) is as regards the amenability of the orders passed by the Administrative Tribunals which have been established under Article 323A of the Constitution of India, to the writ jurisdiction of the High Courts under Articles 226 and 227. The proposition laid down by the Apex Court cannot be extended to the instant case as in the instant case, the order has been passed by the Maharashtra Administrative Tribunal refusing to take cognizance of the complaint for the offence punishable under Section 193 of the Indian Penal Code against which the Appeal filed before the Learned Single Judge of this Court, as indicated above, has been dismissed. Hence, the above petition is not maintainable, insofar as, it challenges the order passed by the Learned Single Judge of this Court dated 26th October, 2015. However, it would be open for the petitioner to adopt such remedy as is available in law against the said order dated 26th October, 2015 passed by

the Learned Single Judge. Hence, by keeping the said remedy open, we dispose of the above writ petition.

3. In view of disposal of the Writ Petition, there is now no warrant to pass any order on the above Criminal Application which has been filed for amendment. The same to accordingly stand disposed of.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)