

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 CRIMINAL APPEAL NO.535 OF 2020

WITH

CRIMINAL APPLICATION NO.1905 OF 2020

ANJALI DEVIDAS SUSE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. N.R. Thorat, Advocate for appellant

Mr. A.M. Phule, APP for respondent No.1

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 26th OCTOBER, 2020

PER COURT :

1 Learned Advocate appearing for the appellant, on the point of maintainability which has been raised by this Court on 12.10.2020, submits that in view of decision in **Sk. Rehanabi Sk. vs. Sk. Ahmed Sk. Miya and others** decided on 22.08.2003 (Bombay High Court) (Corum : P.S. Brahme, J.) appeal under Section 372 of the Code of Criminal Procedure is not maintainable but revision is maintainable. At the costs of repetition, it can be said that the appellant is the original informant, who is challenging the Judgment of acquittal passed by learned Judicial Magistrate First Class.

Further, it is to be noted that the proviso to Section 372 of Cr.P.C. gives right to the informant, who can be termed as 'victim' as defined under Section 2(wa) of Cr.P.C. can approach the Court where the appeal would ordinarily lie challenging the acquittal of the accused. The proper remedy for the present appellant would be to go before the Sessions Court under Section 372 of Cr.P.C.. The present appeal, which has been stated to have been filed under Section 386(b) of Cr.P.C. is definitely not maintainable.

2 The learned Advocate for the appellant seeks withdrawal of the appeal with liberty to approach the Sessions Court under Section 372 of Cr.P.C.. Accordingly, the appeal is disposed of with liberty as prayed.

3 Criminal Application No.1905 of 2020 stands disposed of.

(Smt. Vibha Kankanwadi, J.)

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