

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CRIMINAL APPEAL NO.143 OF 2022

VILAS KARBHARI GODSE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Nitin Jagdale, Advocate h/f Mr. M.V. Salunke, Advocate for the appellant

Mr. S.P. Deshmukh, APP for the respondent No.1

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 28th JUNE, 2022

PER COURT :

1 Heard learned Advocate Mr. Nitin Jagdale holding for learned Advocate Mr. M.V. Salunke for the appellant and learned APP Mr. S.P. Deshmukh for the respondent No.1.

2 In the present appeal the informant is challenging the acquittal of respondent Nos.2 and 4. (Original accused No.2 appears to have expired during the pendency of the case before the Trial Court.) Respondent Nos.2 and 4 were prosecuted in Regular Criminal Case No.121/2016 before Judicial Magistrate First Class, Akole, Dist. Ahmednagar, for the offence punishable

under Section 420 read with Section 34 of the Indian Penal Code, 1860. They came to be acquitted on 14.01.2022. The present appellant states that he has filed appeal under Section 372 of the Code of Criminal Procedure, 1973. In view of the proviso to Section 372 of the Code of Criminal Procedure the appeal would lie before Sessions Court. Under such circumstance, the learned Advocate for the appellant submits that he be permitted to withdraw this appeal and liberty be granted to the appellant to approach learned Sessions Court.

3 When it appears that wrong Forum has been chosen but the remedy has been rightly tried to be used, then, the appellant should approach the concerned Court where the appeal would lie, in view of proviso to Section 372 of the Code of Criminal Procedure. The present appeal stands disposed of as withdrawn with liberty as prayed. If an application for condonation of delay is filed by the appellant, the concerned Court would be guided by the provisions of law.

(Smt. Vibha Kankanwadi, J.)