

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.102 OF 2021

X Y Z C/o Anita Dharamsing Rathod... APPELLANT

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....

Mr. N.R. Thorat, Advocate for appellant

Mrs. R.P. Gaur, A.P.P. for respondent No.1.

Mr. Joydeep Chatterji, Advocate for respondents No.2 to 5

.....

WITH

APPLICATION FOR LEAVE TO APPEAL BY STATE NO.36 OF 2021

The State of Maharashtra ... APPELLANT

VERSUS

Sachin Chandrakant Shelke & ors. ... RESPONDENTS

.....

Mrs. R.P. Gaur, A.P.P. for appellant – State

Mr. Joydeep Chatterji, Advocate for respondents

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CORAM : R. G. AVACHAT, J.

DATE : 7th JANUARY, 2022

PER COURT :

There are two appeals from acquittal, one preferred by the original complainant/ victim i.e. Criminal

Appeal No.102/2021 and the another by the State i.e. Application for Leave to Appeal by State No.36/2021. In the appeal preferred by the victim, this Court had resorted to action under Section 390 of the Code of Criminal Procedure, meaning thereby, the Court was inclined to hear the appeal on merits. No notice or any action has been initiated by this Court in the appeal preferred by the State. Since the cognizance of the appeal preferred by the victim has already been taken, the appeal preferred by the State has already been tagged with the appeal preferred by the victim, no separate cognizance in the appeal preferred by the State is required to be taken. Needless to state that, the State will have to be heard as appellant. Application for Leave to Appeal by State No.36/2021 is allowed. Leave to file appeal is granted. Appeal be registered.

2. Both the appeals are, therefore, **admitted**.

3. No separate recourse to Section 390 of the Code of Criminal Procedure is required to be taken in the appeal preferred by the State since the same has already been done in the connected appeal preferred by the victim.

4. Call for record and proceedings.

5. Learned A.P.P. waives service for respondent No.1 in Criminal Appeal No.102/2021. Learned counsel Mr. Chatterji informs to have instructions to appear for respondents No.1 to 4 in the Appeal filed by the State and waives service.

**(R. G. AVACHAT)
JUDGE**

fmp/-