

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

**APPLICATION FOR LEAVE TO APPEAL
BY PRIVATE PARTY NO. 53 OF 2020**

Rohit Raosaheb Korhale

Applicant

Versus

Dr. Kiran S. Deepak & others

Respondents

Mr. P. R. Nangare, advocate for the Applicant

Mr. P. P. Kothari, advocate for Respondent No.1

Mr. Abhay D. Ostwal, advocate along with Mr. P. M. Salunke,
advocate for Respondent No.2

Mr. Amit S. Savale, advocate for Respondent No.3

**CORAM : SANDIPKUMAR C. MORE, J.
DATE : 10th OCTOBER, 2023.**

P.C. :

Heard rival submissions.

The respective learned Counsel for all the respondents have raised an objection that the present appeal itself is not maintainable since a Revision would lie before the concerned Sessions Court from the order impugned, which discharged the respondents resulting into dismissal of the Complaint.

In view of the aforesaid objection raised, a report from the Registrar (Judicial) of this Court was called about

maintainability of this appeal. Accordingly, the Registrar (Judicial) submitted report dated 30.09.2023. It was pointed out that the trial Court, by exercising powers under Section 245 (2) of Code of Criminal Procedure, has discharged the present respondents-accused and, therefore, the remedy against such order of discharge would be in the form of Revision before the concerned Sessions Court and not the appeal.

In view of the aforesaid report, the application stands disposed of being not maintainable before this Court. The appellant-applicant-original complainant, however, will be at liberty to pursue the remedy of filing Revision Application before the concerned Sessions Court against the impugned order and if such Revision Application is filed, the concerned Sessions Court may consider the time spent in prosecuting this application while dealing with the aspect of considering delay in filing the Revision Application.

SANDIPKUMAR C. MORE
JUDGE

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