

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

908 CRIMINAL APPEAL NO.727 OF 2019  
RUKHMINI RAMCHANDRA JANGALE AND ANR  
VERSUS  
MOHAN BHAGWAT TARWADE AND OTHERS

...  
Advocate for Appellants : Mr.Tarde Vivek V.  
APP for Respondent No.19 : Mr.R.D.Sanap

...  
**CORAM : SMT. VIBHA KANKANWADI &  
ABHAY S. WAGHWASE, JJ.**

**DATE : 24<sup>th</sup> January, 2023**

**PER COURT :-**

1. Present appeal has been filed under Section 372 of the Code of Criminal Procedure (Cr.P.C.) by appellants - original victim Nos.10 and 13 and thereby there is challenge to Judgment and order dated 21-06-2018 passed by Judicial Magistrate First Class (JMFC), Rahuri, District Ahmednagar in R.C.C.No.113 of 2012.

2. We would like to reproduce the relevant proviso to Section 372 of the Cr.P.C. for ready reference which reads thus;

*“Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”*

3. Therefore, reading the above proviso, which gives right to the victim to prefer an appeal against acquittal, appeal would lie to the Court to which an appeal ordinarily lies under the order of acquittal of such Court. Here is acquittal by learned JMFC, Rahuri and the appeal against conviction of a order by JMFC would lie before the Sessions Court and therefore, in such circumstance, appeal will lie before the Sessions Judge, Ahmednagar. The matter is thus transferred to the file of learned Sessions Judge, Ahmednagar for further procedure as per the provisions of law.

**( ABHAY S. WAGHWASE )**  
**JUDGE**

**( SMT. VIBHA KANKANWADI )**  
**JUDGE**

SPT