

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 858 OF 2023

Yagnaprasad Amritlal Acharya ...Appellant

vs.

The State of Maharashtra and Ors. ...Respondents

Shri Aniket Ujjwal Nikam, Shri Aashish Satpute - Advocate for the
Appellant

Mr. H. J. Dedhia - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 06th FEBRUARY, 2024

P. C. :-

1. Heard learned Advocate Shri Nikam for the Appellant-Complainant and learned App.
2. On the complaint filed before the Municipal Corporation of Greater Mumbai, the Junior Engineer of the MCGM lodged the F.I.R. for the offence punishable under Section 53 (1)(7) of the Maharashtra Regional and Town Planning Act. Police filed charge-sheet, after trial, Court of the JMFC acquitted the accused for the offence punishable under Section 53 (1)(7) of the Maharashtra Regional and Town Planning Act. The Appellant intends to challenge this judgment by way of an appeal.

3. Learned Advocate Shri Nikam fairly admits that this appeal will lie before the Court of the Sessions. He made following two submissions:-

- a) If the State could have preferred an appeal as per provision of Section 378 (1)(a), the appeal ought to have been filed before the Court of Sessions.
- b) If the accused would have been convicted, appeal could have been maintainable before the Court of Sessions.
- c) If the victim wants to prefer an appeal as per proviso of Section 372 of the Court, the appeal lies before the Court before whom ordinarily appeal against conviction lies.

4. In view of the above submissions, the appeal before this Court will not be maintainable. He prays for condonation of delay caused in prosecuting this proceedings. Hence the Order:-

ORDER

- (i) Appeal is disposed of as not maintainable.
- (ii) Liberty granted to the Appellant to approach the Court of Sessions Greater Mumbai.
- (iii) The Applicant is at liberty to pray for condonation of delay caused in prosecuting this appeal and it may be considered positively.

[S. M. MODAK, J.]