

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 155 OF 2024

Hemant Nagardas Gandhi

...Applicant

vs.

The State of Maharashtra and Ors.

...Respondents

Mr.Sangram B. Suryavanshi:-	Advocate for Applicant.
Mr.Y.Y.Dabke:-	APP for Respondent No.1 – State.

CORAM : S. M. MODAK, J.

DATE : 27th MARCH 2024

P. C. :-

1. Heard learned Advocate for the Applicant / First-Informant.
2. On his complaint, a charge-sheet was filed against the present Respondent Nos.2 to 5. They were acquitted by the Court of Metropolitan Magistrate, 17th Court, Borivali – Mumbai. (Page No.271) on 9th June 2017 for the offences under Sections 420, 465, 467, 468, 471, 408, 120-B read with 34 of Indian Penal Code, 1860 (“IPC”).
3. This judgment of acquittal was challenged by the First-Informant

as well as by the State and both the Appeals were dismissed on 17th October, 2023 by the Court of Additional Sessions Judge, Borivali. (Page No.341). The Appeal was filed by the First-Informant as per the proviso to Section 372 of the Code of Criminal Procedure, 1973 ("Cr.P.C.).

4. Now, the First-Informant intends to challenge the legality of the Appellate Court order by way of this Revision. I have brought it to the notice of learned Advocate, the provisions of Sub-section 4 of Section 401 of Cr.P.C. A Revision cannot be filed when the Appeal is provided and no Appeal is brought.

5. On this background, when a query is made, have you averred in the Application that Appeal is not provided and hence, not filed? Learned Advocate seeks time.

6. At the same time, the issue also is whether the Appeal is maintainable against the judgment of acquittal by the Appellate Court thereby confirming the judgment of acquittal by the trial Court. This is in pursuance to proviso to Section 372 of the Code. Learned Advocate seeks time to address this Court on this issue.

7. Let hard/soft copy be served to the Office of Public Prosecutor.
8. Stand over to 15th April 2024.

[S. M. MODAK, J.]