

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 181 OF 2025

Vaishali Sadanand Tarkar @ Dhondetarkar .Applicant

Versus

The State of Maharashtra & anr. .Respondents

Ms. Aishwarya K. a/w. Ms. Shweta R. Rathod i/b. Elixir Legal
Services, Advocates, for the Applicant

Mr. H. J. Dedhia, APP, for Respondent No. 1 - State

CORAM : S. M. MODAK, J.

DATE : 16.07.2025

P. C.

1. Heard Ms. Aishwarya K, learned Advocate for the Applicant and Mr. Dedhia, learned APP for Respondent No. 1 – State.
2. On the complaint of one Mr. Bhushan Sadanand Tarkar, FIR came to be registered as per the directions given under Section 156(3) of the Code of Criminal Procedure, 1973. Charge-sheet came to be filed by the Neral Police Station for the offences punishable under Sections 419, 420, 465, 467, 468, 471 r/w. Sections 34 and 120B of the Indian Penal Code. After the evidence, learned JMFC, Karjat by Order dated 30.03.2022 was pleased to acquit the sole Accused – Naresh Kanha Masne. The said Bhushan

Tarkar expired on 04.10.2021. The present Applicant is the sister of said Bhushan and she has also given the evidence as PW.2.

3. She wants to prefer an Appeal challenging the Judgment of acquittal and that is why leave is sought. The Appeal against such acquittal is not maintainable before this Court. The forum will be the Court of learned Additional Sessions Judge, and I am giving the following reasons for the said decision.

(a) The ingredients of Section 378(4) of the Code of Criminal Procedure, 1973 (for short “Cr.PC”) will not be applicable because this is a police case.

(b) If there is acquittal in case of cognizable and non-bailable offence by the Court of JMFC, the Appeal can be filed before the Court of the learned Additional Sessions Judge on the directions of the District Magistrate.

(c) As per the provisions of Section 372 of the Cr.PC, victim can prefer an Appeal against the Judgment of acquittal.

(d) The forum is the same forum before whom there can be an Appeal against the Judgment of conviction.

(e) For the above discussion, the Appeal is not maintainable. Liberty is sought to approach the Sessions Court. Hence, the Order.

O R D E R

(i) Leave Application and the Appeal proceedings are disposed of as not maintainable.

(ii) Liberty is granted to the Applicant to approach the Court of learned Additional Sessions Judge.

(iii) If there is a period prescribed and there is a delay, she is at liberty to apply for condonation of delay and it may be considered positively.

(iv) The Applicant to satisfy the Appellate Court that she is a victim.

(v) Let the Registrar (Judicial – I) to verify as to how such proceeding is entertained by the office when it is not maintainable.

4. The Application stands disposed of.

(S. M. MODAK, J.)