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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.A. 487/2022 & CRL.M.A. 6308/2024**

COMPLAINANT X

.....Appellant

Through: Dr. Ashutosh, Ms. Komal Sharma,
Mr. Pankaj, Advocates

versus

STATE AND ANOTHER

.....Respondents

Through: Mr. Amit Ahlawat, APP for the State
with SI Meena Malik, PS Maurya
Enclave
Mr. Vikram Singh Panwar, Mr.
Suyash Sinha, Mr. Abhimanyu Singh,
Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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30.04.2025

1. The present appeal filed by the Complainant under Section 372 read with Section 482 of the Code of Criminal Procedure, 1972¹ is directed against the order of acquittal of Respondent No. 2 dated 14th July 2022 passed by Mahila Court, North West, Rohini Courts, Delhi in the FIR no. 36/2013 under Sections 354 and 506 of the Indian Penal Code, 1860² registered at P.S. Maurya Enclave. Subsequently, Chargesheet was filed and charges were framed against the Respondent no. 2 under Section 354, 506 and 323 of the IPC.

2. Mr. Vikram Singh Panwar, counsel for Respondent No. 2, points out

¹ "Cr.P.C."

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that the instant appeal under Section 372 of the Cr.P.C. is not maintainable before this Court as the appropriate forum to challenge the impugned order under Section 372 of Cr.P.C. would be the Court of Sessions.

3. Mr. Amit Ahlawat, APP for the State, supporting the submissions made by Mr. Panwar, states that a victim/Complainant is not required to seek leave to appeal against the order of acquittal and can pursue statutory appeal as a matter of right under Section 372 of Cr.P.C. However, the challenge to the acquittal order in the instant case, under the said provision, would lie before the Sessions Court. On this proposition, he places reliance on the judgment of ***Mallikarjun Kodagali (Dead) represented through Legal Representatives vs. State of Karnataka³ and Ors.*** and ***Akhtar Mirza vs. State of Assam and Ors.⁴***

4. In view of the above, Dr. Ashutosh, counsel for Appellant, seeks permission to withdraw the present appeal with liberty to file the same before the Court of Sessions. In this regard, he also submits that, given that the appeal has been pending before this Court since 2022, in case the Appellant files the appeal before the Sessions Court, the same would be barred by limitation. As such, he requests that this Court may pass a direction to exempt the appeal from the effects of limitation, thus allowing it to be considered by the Sessions Court on merits.

5. Having regard to the aforementioned circumstances and the submissions of the parties, the present appeal is dismissed as withdrawn with liberty to the Appellant to approach the Sessions Court, in accordance with law.

² “IPC”

³ (2019) 2 SCC 752

⁴ 2019 SCC OnLine Gau 2295



6. Considering the fact that the present appeal was filed before this Court within the limitation period, it is directed that in case the Appellant prefers an appeal before the Sessions Court within a period of 30 days from today, the same shall not be rejected solely on the ground of limitation.

7. With the above directions, the present petition along with pending applications, if any, is dismissed as withdrawn.

8. It is made clear that the Court has not commented on the merits of the case and all rights and contentions of the parties are open.

SANJEEV NARULA, J

APRIL 30, 2025/ab

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