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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CRL.A. 1414/2019 & CRL.M.A. 42623/2019**

**SHAMSHER @ SHAMMI**

.....Appellant

Through: Mr. Amit Chaddha, Sr. Advocate with  
Mr. Aditya Bhardwaj and Mr. H.  
Singh, Advocates

versus

**STATE & ORS.**

.....Respondents

Through: Mr. Laksh Khanna, APP for State  
with SI Sonu Kr. Jha, PS: Ambedkar  
Nagar  
Mr. Sunny Mann, Advocate for R-2  
& R-3

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

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**13.01.2025**

1. Mr. Sunny Mann, Advocate appearing for Respondent Nos. 2 and 3 has raised a preliminary objection on the maintainability of the appeal.
2. He states that in view of the proviso to Section 372 of Code of Criminal Procedure, 1973, the Petitioner herein has an efficacious remedy of filing an appeal against the impugned order dated 08.08.2019 before the Court of Sessions. He relies upon the judgement of the Coordinate Bench of this Court in **Lalita vs. State and Others**<sup>1</sup>.
3. On the last date of hearing, learned senior counsel for the Petitioner

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<sup>1</sup> 2019 SCC OnLine Del 9808



had sought time to examine the said judgement and therefore, the matter was adjourned for today's hearing.

4. Learned Senior Counsel for the Petitioner fairly states on instructions that in view of the Judgement passed by this Court in **Lalita vs. State** (supra) and **Seema v. State & Ors.**<sup>2</sup>, the present petition is not maintainable.

5. He, therefore, seeks liberty to withdraw the present petition and approach the appropriate Court for filing an appeal against the impugned order, in accordance with law.

6. He states that the objection on maintainability has been raised by Respondents for the first time on the last date of hearing. He states that the Petitioner was therefore pursuing these proceedings bona fide. He states that the Petitioner undertakes to file the appeal within a period of four (4) weeks and seeks exclusion of the time spent before this Court in the present proceedings for the purpose of limitation.

7. Learned counsel for the Respondent Nos. 2 and 3 states he has no objection to the said relief qua exclusion of period for counting limitation.

8. Mr. Laksh Khanna, who appears for the State also states that he has no objection to the submissions made by either of the parties and agrees that the Petitioner can maintain an appeal.

9. Accordingly, this petition is disposed of granting liberty to the Petitioner to file an appeal within a period of four (4) weeks before the Court of Competent Jurisdiction in accordance with law. It is directed that if the appeal is filed within four (4) weeks the Petitioner will be entitled to exclusion of time spent in prosecuting the present petition as contemplating

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<sup>2</sup> CRL. A 1247/2019



in Section 14 of Limitation Act, 1963.

10. Pending applications stands disposed of.

11. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, [www.delhihighcourt.nic.in](http://www.delhihighcourt.nic.in), shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

**MANMEET PRITAM SINGH ARORA, J**

**JANUARY 13, 2025***/rhc/ms*