

**RMM LAW COLLEGE SAHARSA**

**CODE OF CRIMINAL PROCEDURE**

**IIIrd Part**

**Paper -3**

**TOPIC- PROVISIONS AS TO  
ACCUSED PERSONS OF**

**Topic- APPEALS**

**Lecture Notes by- BINOD KUMAR JHA**

**Date- 18/07/2020**

**and the name of the accused**

**372. No appeal to lie unless otherwise provided.**

No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

**373. Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.**

Any person,—

(i) who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 121, may appeal against such order to the Court of Session:

Provided that nothing in this section, shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 122

**374. Appeals from convictions.**

(1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial; may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,—

(a) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class or of the second class, or

(b) sentenced under section 325, or

(c) in respect of whom an order has been made or a sentence has been passed under section 360 by any Magistrate, may appeal to the Court of Session.

### **State Amendments**

Punjab and Union Territory of Chandigarh: In sub-section (3) of section 374, for the words "Magistrate of the first class" read as "Executive Magistrate". [Vide Punjab Act. 22 of 1983 (w.e.f. 27-6-1983)]

### **Comments**

(i) When two views are possible and acquittal judgment of trial Court in murder case found reasonable, High Court not justified in taking different view with that of trial Court; Ajit Singh Thakur Singh v. State of Gujarat, AIR 1981 SC 733: (1981) Cr LJ 293: (1981) SCC 495: (1981) SCC (Cr) 184: (1981) Cr LR (SC) 167.

(ii) Leave to appeal refused by the High Court without giving any reason liable to be set aside; State of Maharashtra v. Vithal Rao Pritirao Chauhan, AIR 1982 SC 1215: (1982) Cr LJ 1743: (1981) 4 SCC 129: (1981) SCC (Cr) 807: 1982 Cr LR (SC) 19.

(iii) Sufficient cause must be established for not filing appeal within limitation period and that cause must arise before expiry of limitation period; Ajit Singh Thakur Singh v. State of Gujarat, AIR 1981 SC 733: (1981) Cr LJ 293: (1981) 1 SCC 495:

(1981) SCC (Cr) 184: (1981) Cr LR (SC) 167.

(iv) When the view taken by Sessions Judge was found by High Court to be manifestly wrong and that it had led to miscarriage of justice, High Court was entitled to set aside the acquittal; Arun Kumar v. State of Uttar Pradesh, 1989 Cr LJ 1460: AIR 1989 SC 1445.

(v) In grant of leave to appeal against acquittal issue of show-cause notice to accused before hearing appeal on merits is without jurisdiction and misuse of power of High Court; R.V. Murthy (Dr.) v. State of Karnataka, AIR 1982 SC 677: (1982) Cr LJ 423: (1981) 4 Scc 157: (1981) SCC (Cr) 810.

### **375. No appeal in certain cases when accused pleads guilty.**

Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal.—

(a) if the conviction is by a High Court; or

(b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence