

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.710 OF 2014
IN
CRIMINAL APPEAL NO.649 OF 1996
WITH
CRIMINAL APPLICATION NO.711 OF 2014
IN
CRIMINAL APPEAL NO.649 OF 1996**

Suresh Damodar Kagane,
Since Deceased through His
Legal Heirs.

... **Applicants**

V/s.

The State of Maharashtra

... **Respondent**

.....

Mr.Harshad Bhadbhade, Advocate for the Applicant.

Mr.Deepak Thakre, APP for the Respondent/State.

....

CORAM : ABHAY M. THIPSAY J.

DATED : 10TH MARCH 2015

P.C.

01. Heard Mr.Bhadbhade, the learned counsel for the applicants. The applicants are the heirs and legal representatives of the original appellant, who passed away on 30/11/2001. The applicants want to prosecute the appeal.

02. I find that the sentence imposed upon the original appellant was also of fine and as such, the appeal would not abate

in view of the provisions of Section 394 of the Code of Criminal Procedure. The appeal would, anyway, required to be decided on merits. As such, the applications need to be allowed.

03. The delay in filing the applications is condoned. The applicants are granted leave to continue with the appeal in their capacity as the heirs and legal representatives of the deceased appellant. With this order, both the applications are disposed of.

04. It is pointed to me that by an order dated 21st January 2014, the appeal was treated as abated. However reading of the said order indicates that that the sentence is of the fine, was not pointed to this Court.

05. As such, the order dated 21st January 2014 is recalled.

06. The appeal shall be heard and decided in accordance with law.

07. Since the same is ready for final hearing, after necessary amendments, pursuant to the leave granted to the applicant to continue to the appeal are carried out, the appeal be listed for final hearing in the week commencing from **30th March 2015**.

(ABHAY M. THIPSAY J.)