

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 5213 OF 2015
IN
CRIMINAL WRIT PETITION NO. 149 OF 2003**

Asif s/o Yusuf Patel,
since died through his Lrs.

1-A. Halimabnee w/o Yusuf Patel,
Age: 65 years, Occ: Household,
R/o. Newada Kd. Tal. Newasa,
Dist. Ahmednagar & anr. ...Applicants

versus

The State of Maharashtra & anr. ...Respondents

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Mr. G.N. Kulkarni, Advocate h/f Mr. A.M. Karad , Advocate for
applicants
Mr. R.B. Bagul, A.P.P. for respondent No. 1
Mr. A.M. Gaikwad, Advocate for respondent No. 2
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CORAM : N.W. SAMBRE, J.

DATE : 17th MARCH, 2016

ORAL ORDER :

Original complainant Asif Yusuf Patel expired on 13/09/2011, at whose behest the complaint for the offence punishable under Section 330 of Indian Penal Code, which provides maximum punishment of seven years, came to be lodged. After his death, present applicants are seeking substitution, in view of provisions of Section 256 of Code of Criminal Procedure.

2. Having regard to the law laid down by the Apex Court in the matter of ***Ashwin Nandubhai Vyas vs. The State of Maharashtra and another*** reported in ***AIR 1967 SC 983*** and the provisions of Section 256 of Code of Criminal Procedure, in my opinion, the application needs to be allowed. As such, the application is allowed.

3. Substitution, as prayed for, be carried out within two weeks from today.

[N.W. SAMBRE, J.]