

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.104 OF 2017
IN
CRIMINAL APPLICATION NO.280 OF 2016
IN
CRIMINAL APPEAL NO.872 OF 2003**

Mahadev Sidram Devkate

Since deceased through legal heirs

1. Smt. Jayashree M. Devkate & Ors.

)...Applicants

V/s.

State Of Maharashtra

)...Respondent

Mr. P.R.Suryawanshi i/by G.M.Savagave, Advocates for the Applicants.

Mr. Vinod Chate, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 15th MARCH, 2017.

P.C. :

These are applications for condonation of delay in applying for leave to prosecute the appeal through legal heirs of the deceased Appellant-Accused.

2 Heard learned Advocate appearing for the Applicants/legal heirs of the deceased Appellant. He argued that in order to remove stigma of conviction, legal heirs of the

deceased Appellant have decided to prosecute the appeal filed by him. In order to take it to its logical end as they were not aware of the procedural formalities, there is delay in filing application for leave to prosecute the appeal. My attention is drawn to Section 394 of Cr.P.C. by the learned Advocate for the Applicants.

3 I have also heard the learned APP appearing for the State. The Appellant-Accused Mahadev Sidram Devkate was convicted of the offence punishable under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and he has challenged that conviction and sentence by filing appeal before this Court. During the course of pendency of the appeal, the Appellant-Accused died on 9.8.2013. As such, his legal heirs have moved these applications for condonation of delay as well as for granting leave to prosecute the appeal by setting aside abatement , if any.

4 Considering the stated reasons in both these applications, both these applications are allowed. Delay in filing application for leave to prosecute the appeal is condoned. Applicants/legal heirs of the deceased Appellant-Accused are

permitted to continue the appeal.

(A. M. BADAR, J.)