

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1095 OF 2016
AND
CRIMINAL APPLICATION NO.1096 OF 2016
IN
CRIMINAL APPEAL NO.135 OF 1997**

NATHAJI TUKARAM LOHAKARE)
 Since deceased through his legal heir)
 SMT.SARASWATI NATHAJI LOHAKARE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.S.D.Khot, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 23rd JANUARY 2017.

P.C. :

1 The learned advocate appearing for the applicant seeks leave to amend Criminal Application No.1096 of 2016 in order to add a prayer for setting aside the abatement of the appeal. Leave granted. Amendment be effected forthwith. Necessary court fee stamp be paid.

2 These are applications for condonation of delay and setting aside abatement of the appeal as well as for bringing legal heir of the deceased appellant Nathaji Tukaram Lohakare on record for prosecuting the appeal filed by him.

3 Heard the learned advocate appearing for legal heir of the deceased appellant Nathaji Lohakare. Perused copy of death certificate dated 13th July 2016 issued by Village Development Officer, Gram Panchayat, Khandali, showing that Nathaji Tukaram Lohakare died on 28th May 2014.

4 It is seen that the deceased Nathaji Lohakare died during pendency of the appeal filed by him. He is convicted of offence punishable under Section 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act. The applicant is stated to be legal heir of the deceased appellant Nathaji Lohakare. Right to prosecute the appeal continues in favour of applicant Saraswati Nathaji Lohakare, she being wife of the deceased appellant / convicted accused. Cogent reasons are given explaining the delay

caused in filing an application for setting aside abatement and bringing legal heir of the deceased appellant on record. Hence, the order :

- i) The applications are allowed.
- ii) Delay in filing an application for setting aside abatement and for bringing legal heir of the deceased appellant on record is condoned.
- iii) Abatement set aside.
- iv) Legal heir of the deceased appellant be brought on record within a period of 14 days from the date of passing this order.

(A. M. BADAR, J.)