

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1356 OF 2016

IN

CRIMINAL APPEAL NO.523 OF 2004

**SANMUKH SINGH SETHI (since deceased))
MRS.HARJIT KAUR KOHLI AND ANR.)...APPLICANTS**

IN THE MATTER BETWEEN

**SANMUKH SINGH SETHI (since deceased))
MRS.HARJIT KAUR KOHLI AND ANR.)...APPELLANTS**

V/s.

DAVINDER SINGH ANAND AND ANR.)...RESPONDENTS

Mr.Asraf i/b. Mr.Vikram Chavan, Advocate for the Applicants.

None for Respondent No.1.

Ms.V.S.Mhaispurkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 13th FEBRUARY 2017.

P.C. :

1 It is mentioned that leave note of the learned advocate appearing for the applicant is on record and adjournment is attempted. None for respondent no.1.

2 By this application, legal heirs of deceased appellant are praying for condonation of delay by setting aside abatement and for bringing them on record for prosecuting the appeal. It is seen from the application that original appellant died on 29th May 2016 and applicants are his legal heirs. Original appellant had filed a complaint under Section 138 of the Negotiable Instruments Act, which was allowed by the learned trial court by convicting the accused therein for the offence punishable under Section 138 of the Negotiable Instruments Act. In appeal filed by the accused, the said order of conviction was upset and the accused came to be acquitted. Hence, the appeal by the original complainant.

3 It is seen that during pendency of the appeal, the appellant / original complainant died. His legal heirs want to prosecute the appeal. Right to sue survives. Therefore the order :

- i) The application is allowed in terms of Prayer Clauses (a) and (c).
- ii) Necessary amendment be effected within a period of two weeks.

(A. M. BADAR, J.)