

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.789 OF 2018

IN

CRIMINAL APPEAL NO.137 OF 2014

Sanjeev Sharma Deceased Through His
Legal Heir Smt.Nirmal Sanjeev Sharma ... **Applicant**
V/s.
Central Bureau of Investigation & Anr. ... **Respondents**

.....

Mr.Subhash Jha with Ms.Sanjana Pardeshi i/b. Law Global,
Advocate for the Applicant.

Ms.Ameeta Kuttikrishnan, Advocate for the Respondent No.1/CBI.

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

....

CORAM : A.M.BADAR J.

DATED : 18th SEPTEMBER 2018.

P.C. :

1 This is an application for substitution filed by widow of deceased appellant. The deceased appellant was convicted of offences punishable under Section 120-B read with Section 420 so also under Section 420 of the Indian Penal Code. On first count, he was sentenced to suffer rigorous imprisonment for two years apart from payment of Rs.2,00,000/- towards fine and on another

count, he was sentenced to suffer rigorous imprisonment for four years apart from direction to pay fine of Rs.10,00,000/-.

2 It is reported that during pendency of the appeal, the appellant passed away and, therefore, his widow i.e. the present applicant wants to prosecute the appeal. The applicant has tendered affidavit of Sourabh Sharma and Smt.Surbhi Singh i.e. son and daughter of deceased appellant stating that they have no objection for substitution of the present applicant for prosecuting the appeal filed by their deceased father.

3 Heard the learned Counsel appearing for the applicant. He argued that the applicant is entitled for substitution as she wants to prosecute the appeal. The learned Counsel appearing for the applicant has submitted that prayer clause (b) of the application is not being pressed by the applicant at this stage.. He further argued that the delay in preferring the application is *bona fide*.

4 The learned Counsel appearing for the respondent/CBI opposed the application by contending that it is barred by limitation and delay is inordinate.

5 I have carefully considered the rival submissions and also perused the application along with the affidavits.

6 For the reasons stated in the application, the applicant being widow of the deceased appellant is entitled to prosecute the appeal. The delay in filing the appeal is *bona fide*. Therefore, the Order :

ORDER

- (i) The applicant is permitted to prosecute the appeal filed by her deceased husband.
- (ii) The resultant delay in preferring the application is condoned.
- (iii) The application is disposed of with this Order by observing that the applicant has not pressed the prayer for return of the amount of Rs.6,00,000/- deposited by her husband at this stage.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Digitally signed by
Raju Dattatraya
Gaikwad
Date: 2018.09.19
12:08:52 +0530