

Crl.M.P.No.17613 of 2019 in Crl.A.No.835 of 2005

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DR.G.JAYACHANDRAN,J.

The petitioner is the legal heir of the deceased K.Krishnamoorthy, who was the 4th accused in Spl.Case No.5 of 1999 on the file of the Special Judge-cum-Chief Judicial Magistrate, Villupuram. Having been convicted, he preferred an appeal before this Court in Crl.A.No.835 of 2005. Before the appeal could be taken up for final hearing, the said Krishnamoorthy lost his breath. Hence, his appeal was dismissed as abated.

2. The other connected appeals filed by the co-accused were heard and allowed by this Court on 28.03.2018. The petitioner, who is the legal heir of the deceased Krishnamoorthy having come to know about the result of the appeals filed by the co-accused, has now preferred the present petition to condone the delay of 1489 days to seek leave of this Court to continue the appeal, which was abated.

3. The proviso to Sub Section 2 of Section 394 of the Criminal Procedure Code empowers the Court to grant leave incase the appellant dies during the pendency of the appeal, any of his near relatives within 30 days applies to the Court seeking leave to continue the appeal.

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4. In this case, the petitioner is the wife of the deceased Krishnamoorthy. There is a delay of 1489 days in preferring the said petition. To meet the ends of justice invoking the inherent power of this Court under Section 482 of the Criminal Procedure Code and Section 5 of the Limitation Act, the delay of 1489 days is condoned. Accordingly, this petition is ordered.

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04.12.2019



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