

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2908 OF 2021
IN
CRIMINAL APPEAL NO. 424 OF 2018**

Kaka Shankar Patil (since deceased through
Legal heirs) 1. Raghubai Kaka Patil & ors. ... Applicants.

V/s.

The State of Maharashtra. ... Respondent.

Mr. Vivek V. Salunke, advocate for applicants.

Mr. Arfan Sait, APP for State.

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**CORAM : SMT. SADHANA S. JADHAV &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : NOVEMBER 30, 2021.

PC.

1 This is an application for bringing legal heirs of the deceased original Accused No. 1-appellant in Cri. Appeal No. 424 of 2018 Kaka Shankar Patil on record in order to prosecute the present appeal. It is reported that the appellant Kaka Shankar Patil has expired on 14/5/2018. The death certificate is filed on record. In fact, by virtue of the demise of the appellant, the appeal would stand abated.

2 Learned Counsel for the applicant submits that the accused No. 1 i.e. late Kaka Shankar Patil was in service with Kalyan Dombivali

Municipal Corporation in the capacity of fireman. Upon his demise, there was proposal for granting family pension to the family of the deceased. However, upon noticing that Kaka Shankar Patil has been convicted for the offence punishable under section 302 of the Indian Penal Code, the said proposal was rejected. It is submitted that two sons of late Kaka Shankar Patil are also undergoing sentence for their conviction under section 302 of the Indian Penal Code. The applicant No. 1 is the widow of the deceased. Applicant Nos. 2 and 3 are the sons of the deceased. Applicant Nos. 4 and 5 are the married daughters of the deceased.

3 Learned Counsel Mr. Salunke has further submitted that there is a delay of 1189 days in filing the present application. It is submitted that the ladies in the family had no knowledge about the provisions of the law and the very fact that they were in a hope that they would get pension, they have not approached the Court for prosecuting the present appeal. But, since the proposal is rejected, they have decided to prosecute the appeal, since the deceased was a public servant. An oral request is made to delete the applicant Nos. 2 and 3, who are sons of the deceased undergoing sentence for their conviction for offence punishable under section 302 of the Indian Penal Code and applicant Nos.

4 and 5, who are married daughters of the deceased and they are living happily in their matrimonial house. However, applicant No. 1 Raghubai Kaka Patil can prosecute the present appeal for seeking retirement benefits.

4 For the reasons assigned in the present application, the application deserves to be allowed. The delay in filing the present application is condoned in the interest of justice. The appeal as against the deceased Kaka Shankar Patil shall stand restored to its file and the applicant No. 1 is granted permission to prosecute the appeal.

5 The learned Counsel may take steps accordingly. The application is allowed and disposed of on the above terms.

(PRITHVIRAJ K. CHAVAN, J)

(SMT. SADHANA S. JADHAV, J)