

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY
NO.53 OF 2021

PARMESHWAR S/O RAMBHAU GOLHAR DIED
THROUGH HIS L.RS., DNYANESHWAR S/O
PARMESHWAR GOLHAR
VERSUS
PRAKASH MACHINDRA GAIKWAD

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Advocate for Appellant : Mr. Chate Vithal M.

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CORAM : SHRIKANT D. KULKARNI, J.

Dated : August 02, 2022

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PER COURT :-

1. The applicant, who happened to be the legal heir of original complainant is seeking leave to file appeal under section 378 (4) of the Criminal Procedure Code.

2. Heard Mr. Chate, learned counsel for the applicant. He invited my attention to the order and copy of the paper book. He pointed out that the learned counsel for the original complainant has filed pursis before the Judicial Magistrate First Class Court on 1.4.2021 and informed that the complainant is no more and it was necessary to bring on record the legal heirs. However, the learned J.M.F.C., Ashti was pleased to

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dispose off the complainant for want of steps in view of section 256(3) of the Criminal Procedure Code, resulting acquittal of the accused. He, therefore, urged to grant leave.

3. Even though purshis filed by the learned Advocate for the original complainant was not properly worded, it was made clear that the complainant was no more and his legal heirs are required to be brought on record. As such, it was necessary on the part of the learned Judicial Magistrate First Class to grant some time to take steps. Purshis came to be filed on 1.4.2021 about death of complainant and on the same day complaint came to be disposed off. By considering all these aspects, it is necessary to grant leave. Hence, the order.

O R D E R

- i. The application seeking leave to file appeal is hereby allowed.
- ii. The Registry is directed to convert the proceedings into appeal and it be numbered accordingly.

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- iii. The application is accordingly disposed off.
- iv. Office to place the appeal before this Court for admission as per the procedure.

(SHRIKANT D. KULKARNI, J.)

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