

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1549 OF 2009**

Ashwin A. Bhuva ... Petitioner
versus
Harjeet Kaur Bhatti and Anr. ... Respondents

Mr. Jayesh Bhatt, for Petitioner.
Mr. Veerdhaval Kakade i/by Ms. Manju Sharma, for Respondent No.1.
Mr. S.R.Aagarkar, APP, for State.

CORAM: N.J.JAMADAR, J.

DATE : 28th APRIL, 2022

P.C.

1. Heard the learned Counsel for the Petitioner. The Petitioner – Ashwin A. Bhuva is reported to be dead. A copy of the death certificate of the Petitioner is placed on record. The deceased Petitioner has instituted this Writ Petition to quash and set aside the order dated 6th December, 2007 passed by the learned Metropolitan Magistrate, 18th Court, Girgaum, Mumbai, of issue of process against the Petitioner for the offences punishable under Sections 420, 468 read with Section 34 of the Indian Penal Code.

2. The learned Counsel for the Petitioner submits that though the Petitioner is dead, the brother of the Petitioner who is also co-accused in Case No.39/SW/2007 intends to prosecute the above Writ Petition and file an Application for substitution.

3. Evidently, the brother of the Petitioner who is co-accused has not joined the deceased Petitioner in seeking the relief of quashing and setting aside the order of issue of process. The Writ Petition is pending since the year 2009. There was ample time to the co-accused to join in, in the instant Petition seeking quashing of the proceedings before the learned Metropolitan Magistrate. There is no impediment for the co-accused to independently file the Writ Petition seeking the same relief. In this view of the matter, the request of the learned Counsel for the Petitioner to adjourn the Writ Petition so as to facilitate the co-accused to file an Application for substitution and continue the Writ Petition for himself, stands rejected.

4. The Writ Petition stands disposed.

(N.J.JAMADAR, J.)