

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

**INTERIM APPLICATION NO. 2082 OF 2022
IN
INTERIM APPLICATION NO. 2083 OF 2022
IN
CRIMINAL APPEAL NO. 941 OF 2002**

Sadashiv Krishna Mane (since deceased)
through Sunita Sadashiv Mane ..Applicant.

In the matter between:

Sadashiv Krishna Mane & Ors. ..Appellant
Versus
The State of Maharashtra ..Respondent

Mr. Vilas B. Tapkir for Applicant.
Smt. Racheeta R. Dhuru for Original Appellant in
Appeal/941/2002.
Smt. J. S. Lohokare, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 13th SEPTEMBER 2022**

PC :

1. The applicant herein is widow of the original Appellant No.1 in Criminal Appeal No.941 of 2002. The original Appellant No.1 was convicted by the learned Additional Sessions Judge, Pune in Sessions Case No.8 of 1998 for commission of offence punishable U/s.304(II) r/w. 34 of I.P.C. and he was sentenced to

suffer R.I. for 3 years. He was also convicted for commission of offence punishable U/s.331 r/w. 34 of I.P.C. and was sentenced to suffer R.I. for 3 years. The impugned Judgment and order was passed on 05/08/2002. After that order the original appellant No.1 was dismissed from the service. He preferred Criminal Appeal No.941 of 2002 against the impugned Judgment and order which is still pending before the Court.

2. It is mentioned in the application and it is submitted by learned counsel for the applicant that the original Appellant No.1 Sadashiv Krishna Mane had expired on 08/11/2014. The applicant was not aware of her legal rights to continue with the appeal. Even the State was not aware of this fact and, therefore, no formal order of abatement of the appeal was passed. The applicant was under the impression that after the death of her husband nothing further survives in the matter. In June 2022, her son came in contact with an advocate who made them aware of their right to continue with the appeal and thereafter this application to continue with the appeal as legal heir of the appellant No.1 was filed.

3. Learned APP opposed this application on the ground that the delay is inordinate.

4. In this process many years have passed and there is delay of 7 years and 204 days in filing application for continuing with the appeal on behalf of the appellant No.1. The submission made by learned counsel for the applicant and the averments made in the application appear to be genuine. There was no reason for the applicant to know about her legal right. Though, this cannot be an excuse for not approaching the Court, but a sympathetic view can be taken in this matter. The appeal is not yet decided. The appeal is preferred by other accused along with the original Appellant No.1 and, therefore, the Court will consider entire evidence. Therefore, there will be no harm caused either to the State or to anybody else, if the applicant is permitted to continue with the appeal on behalf of the Appellant No.1.

5. In this view of the matter, the delay, though it is quite inordinate, can be condoned in the interest of justice and the Appeal can be decided on merits of the matter.

6. Hence, the order:

O R D E R

- a) The delay of 7 years and 204 days in preferring Interim Application No.2083 of 2022 is condoned.
- b) The Interim Application No.2082 of 2022 is disposed of.

(SARANG V. KOTWAL, J.)