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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-46608-2022 in/and
CRA-S-2360-SB-2014 (O&M)
Date of decision : 07.12.2022

Ali Jaidy

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anoop Singh Sheoran, Advocate for the appellant.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

CRM-46608-2022

This is an application filed under Section 394(2) read with Section 482 of Cr.P.C. with the prayer to abate the appeal on account of the fact that the sole appellant-Ali Jaidy has died on 19.09.2019 during the pendency of the appeal and with further prayer under Section 444 read with Section 482 of Cr.P.C. for discharging of surety and bail bonds as per order dated 09.02.2016.

Learned counsel for the applicant-appellant has submitted that the main appeal had been admitted and since the appellant has died therefore, the main appeal is abated, and thus, prays that the main appeal be

also taken up on board today itself for disposal.

On the other hand, learned State Counsel has also submitted that he has no objection in case the main appeal is taken up for hearing today itself and the present application is allowed.

Learned counsel for the applicant-appellant has further submitted that in the present case, appellant-Ali Jaidey was the sole accused and was convicted in FIR No.202 dated 03.07.2012 which was registered under Sections 452 and 307 of IPC at Police Station Old Sector-5, Gurgaon and was sentenced as under:-

<i>Rigorous Imprisonment for seven years with fine of Rs.5000/-. In default of payment of fine, the convict would further undergo rigorous imprisonment for two months.</i>	:	<i>Under Section 307 IPC.</i>
Rigorous Imprisonment for a period of three years with fine of Rs.2000/-. In default of payment of fine, the convict would further undergo rigorous imprisonment for one month.	:	Under Section 452 IPC.

Learned counsel for the applicant-appellant has also submitted that the main appeal was admitted vide order dated 09.09.2014 and thereafter, vide order dated 09.02.2016, the sentence of the applicant-appellant was suspended and he was ordered to be released on bail on his furnishing personal bonds in the sum of Rs.1 lac with one surety of the like amount to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Gurgaon and subject to the condition that the applicant-appellant would not go near the victim or her family members or near their house. It is further submitted that the applicant-appellant died on 19.09.2019 and the present application is supported by an affidavit of the wife of the applicant-appellant and she does not wish to continue the appeal and thus, in

accordance with Section 394(2) of Cr.P.C., it is prayed that the abatement of the appeal be ordered and the surety be discharged.

On the other hand, learned State Counsel has submitted that since the appellant has died and the widow of the appellant does not wish to continue the appeal thus, he does not have any objection in case, the appeal is disposed of as having been abated.

This Court has heard learned counsel for the parties and has perused the record.

Keeping in view the abovesaid facts and circumstances, the present application bearing No.CRM-46608-2022 is allowed and the main appeal bearing No.CRA-S-2360-SB-2014 is disposed of as having been abated and the sureties in the present case are discharged.

Learned counsel for the appellant has further prayed that fine of Rs.5000/- be waived off.

In view of the above, the fine of Rs.5000/- also stands waived off.

All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

07.12.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No