

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

CRIMINAL APPLICATION NO.74 OF 2020

Shakeel Anwar Ziauddin Shaikh

and another

.....Applicants

Versus

Shabana Ashley Periera and another

.... Respondents

Mr. Manish N. Jain, Advocate i/b. S.M. Jain & Associates for
the Applicants.

Mr. A.R. Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd JUNE, 2023

PC. :

1. The Applicants have challenged the order dated 15.3.2016 passed by the Metropolitan Magistrate, 45th Court, Kurla, Mumbai issuing process against them under Sections 420, 406, 468, 471 and 506(ii) read with 34 of IPC. The said order was challenged before the Sessions Court vide Criminal Revision Application No.1075/2018 which was dismissed. Hence, this application is filed.

2. At the first instance, on 6.12.2021, ad-interim relief was granted staying the proceedings before the

Magistrate. Notice was issued to the Respondent No.1 who was the original complainant. During pendency of this application, the office note shows that the notice issued to the Respondent No.1 was returned unserved with police remark that the Respondent No.1 is dead on 11.12.2020.

3. In this view of the matter, this Application cannot be decided on merits. However, the Applicants can approach the trial Court and file appropriate application mentioning the fact of death of the complainant and praying for necessary orders under Chapter XIX of the Code of Criminal Procedure. If such an application is filed, it shall be decided on its own merits.

4. In case the legal heirs decide to continue with the prosecution and are permitted to do so, the Applicants are at liberty to approach this Court by renewing the prayer for quashing of the proceedings.

5. With these observations, the Application is disposed of.

(SARANG V. KOTWAL, J.)