



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

**INTERIM APPLICATION NO. 2704 OF 2023
IN
APPEAL NO. 661 OF 2003**

Pandurang Babu Kumbhar
deceased through his heir
1A. Sunanda Pandurang Kumbhar ..Applicant
VS.
The State of Maharashtra ..Respondent

Ms. Kanchan T. Pawar, for the Appellant.
Mr. Y.M. Nakhwa, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 9, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP. The applicant is the wife of deceased Pandurang Kumbhar. The applicant-Pandurang Kumbhar was working as a Circle Officer in the Revenue Department. Pandurang is the accused no. 2 for which he was tried for the offence under Section 7 and Section 13(i)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 ("PC Act, for short"). The applicant was prosecuted along with the accused no.1-Kishor Shankarrao Hile. The trial Court convicted the accused no.1 who was working as Talathi for committing an offence under Section 7 of PC Act and sentenced him to suffer rigorous imprisonment for 6

months and to pay fine of Rs.100/- each, in default to suffer rigorous imprisonment of 1 month each. The trial Court convicted the applicant- accused no.2 -Pandurang for the offence punishable under section 12 of the PC Act and sentenced him to suffer rigorous imprisonment for 6 months and to pay fine of Rs.100/-, in default to pay fine, rigorous imprisonment of 1 month.

2. My attention is invited to the judgment and order dated 24/04/2023 passed by this Court in Criminal Appeal No. 788 of 2003 in respect of the original accused no.1-Kishor Shankarrao Hile. For the reasons mentioned therein, this Court acquitted the accused no.1. So far as the present applicant – accused no.2 is concerned, it was brought to the notice of this Court during the pendency of Criminal Appeal No. 661 of 2003 in respect of present applicant that the applicant- Pandurang had expired and hence, this Court observed that the Criminal Appeal No. 661 of 2003 stands abated.

3. A reading of the judgment and order of this Court acquitting the accused no.1, more particularly paragraph 13, would reveal that nothing has been brought on record to reflect that the Circle Officer (applicant herein) and the Talathi were capable of showing any favour to the complainant, as he has not been served with the notice

for demolition of the said structure nor any objection was notified about it being illegal/unauthorised. It was the case of the prosecution that it was at the instance of the present applicant-original accused no.2 that the demand of bribe amount was made by the accused no.1. As the accused no.1 stands acquitted, for the same reasons, the applicant-accused no.2 would also have succeeded in the appeal on merits.

4. Learned counsel for the applicant submitted that the order of abatement needs to be recalled as legal heirs of the accused no.2 came to know about the abatement only when the benefits of the applicant- accused no.2 were not released.

5. In my opinion, for the reasons stated in the application, the application deserves to be allowed. The order dated 24/04/2023 passed in Criminal Appeal No. 661 of 2003 needs to be recalled. Criminal Appeal No.661 of 2003 is restored to file.

6. Leave to amend to bring the legal heirs of the applicant on record. Amendment to be carried out forthwith.

7. The application is disposed of.

(M. S. KARNIK, J.)