

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

**IOIN-CRA-S No.318-SB of 2010 in/and
CRA-S No.318-SB of 2010
Date of Decision:06.10.2023**

Maninder Pal Singh @ Githa

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the appellant.

Ms. Ishma Randhawa, Addl. Advocate General, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present appeal was preferred by the appellant-Maninder Pal Singh @ Githa in the year 2010 against the judgment of conviction and order of sentence dated 20.11.2009 passed by the Judge, Special Court, Jalandhar whereby he was convicted under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereafter referred to as NDPS Act) and sentenced to undergo rigorous imprisonment for 2 months along with fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for 7 days, in FIR No.73 dated 28.05.2007 registered under Section 21 of the NDPS Act at Police Station Division No.3, Jalandhar.
2. Vide order dated 22.03.2010, this Court admitted the present appeal while condoning the delay of 16 days in filing the same.
3. There is no representation on behalf of the appellant, despite the fact that counsel for the appellant was informed about the hearing of the aforesaid appeal through email.

4. Learned State counsel on the basis of custody certificate dated 20.09.2023 filed by Mr. Hemant Sharma, PPS, Additional Superintendent, Central Jail, Kapurthala informed the Court that the appellant had died on 18.09.2010 in PGI, Chandigarh.

5. Section 394 of Cr.P.C. speaks about the abatement of appeals filed under Section 377 or Section 378 Cr.P.C. on account of death of the accused except appeal from a sentence of fine. Section 394 Cr.P.C. is reproduced as under:-

“394. Abatement of appeals.

(1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.- In this section, "near relative" means a parent, spouse, lineal descendant, brother or sister.”

6. A perusal of Section 394 Cr.P.C. indicates that on account of death of the accused, the appeal filed under Section 377 or Section 378 shall finally abate. The fine as imposed by the learned trial Court has already been deposited by the appellant as discernible from the order of sentence dated 20.11.2009. The appellant died on 18.09.2010 and till date, no application has been filed by any of the near relative of the appellant for seeking leave of this Court to continue with the appeal in terms of proviso to Section 394 of Cr.P.C., which provides for seeking leave of the Court to continue the appeal within 30 days from the death of the accused during the pendency of appeal. Therefore, the present appeal

stands abated on account of death of the appellant during the pendency of appeal on 18.09.2010. The fine of Rs.500/- has already been deposited.

7. In view of the aforesaid facts and circumstances, the present appeal is disposed of as having been abated and the sureties in the present case are ordered to be discharged.
8. All pending misc. applications, if any, also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

October 06, 2023
Pankaj*

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No