



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1937 OF 2024
IN APPLN/186/2024 IN WP/882/2022
WITH
APPLN/186/2024 IN WP/882/2022

HITENDRA VINAYAKRAO UPADHAYAY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Jadhavar Santosh Sampatrao
APP for Respondents: Ms. S.S. Joshi
...

CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 10.05.2024

PER COURT:

Heard.

2. The criminal writ petition was filed by the Power of Attorney Holder Mr. Manish Vinayakrao Upadhyay on behalf of one Mr. Vinayakrao Narmadashankar Upadhyay.

3. By the order dated 11.03.2024 the learned advocate for the petitioner, on instructions, sought leave to withdraw the criminal writ petition with liberty to avail of the appropriate remedies as are available to him in law including the one contemplated in the matter of **Vinubhai Hirabhai Malaviya Vs. The State of Gujarat and Anr.; AIR 2020 SC (CRI) 289**. Accordingly the writ petition was dismissed as withdrawn with liberty as prayed for.

4. It is now being pointed out that Vinayakrao Narmadashankar Upadhyay on whose behalf the writ petition was filed had died. The application was moved for substituting him by the other partner Hitendra Vinayakrao Upadhyay bearing Criminal Application No.186/2024.

5. In the circumstances, when the original petitioner Vinayakrao had died, the power in the learned advocate to represent him had come to an end unless it was pointed out that the power of attorney executed by Vinayakrao in favour of Manish was an irrevocable power of attorney and the writ petition could have been still continued.

6. In view of the above, the order dated 11.03.2024 passed in criminal Writ Petition No.882/2022 is recalled.

7. The criminal Application No.1937/2024 in criminal Application No.186/2024 is allowed.

8. The criminal Application No.186/2024 is allowed. Amendment in the title of the writ petition to be carried out immediately.

9. On such amendment being carried out the criminal writ petition is allowed to be withdrawn with liberty to avail of the remedies as are available to the petitioner in the light of **Vinubhai Hirabhai Malaviya** (supra).

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)