

V.A Tikam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 41 OF 2022

WITH

CRIMINAL REVISION APPLICATION NO. 44 OF 2022

WITH

INTERIM APPLICATION NO. 90 OF 2022

IN

CRIMINAL REVISION APPLICATION NO. 44 OF 2022

WITH

CRIMINAL REVISION APPLICATION NO.42 OF 2022

WITH

INTERIM APPLICATION NO. 87 OF 2022

IN

CRIMINAL REVISION APPLICATION NO.42 OF 2022

WITH

CRIMINAL REVISION APPLICATION NO. 43 OF 2022

WITH

INTERIM APPLICATION NO.89 OF 2022

IN

CRIMINAL REVISION APPLICATION NO.43 OF 2022

WITH

CRIMINAL REVISION APPLICATION NO. 45 OF 2022

WITH

INTERIM APPLICATION NO.92 OF 2022

IN

CRIMINAL REVISION APPLICATION NO.45 OF 2022

Onkar Ramchandra Athawale

Prop. of M/s. Bhima Colour Cartoons

.. Applicant

Versus

Awade Industries Private Ltd. and Anr.

.. Respondents

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- Mr. Vivek Patil i/b. Mr. Sidheshwar N. Biradar Advocate for Applicant in all matters.
 - Mr. Prajakt M. Arjunwadkar for Respondent No.1.
 - Mrs. Sangita E. Phad, APP for State.
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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 26, 2024.

P.C.:

- 1.** Heard Mr. Patil, learned Advocate for the Applicant, Mr. Arjunwadkar, learned Advocate for Respondent No.1 and Mrs. Phad, learned APP for the State.
- 2.** It is informed that Revision Applicant has expired on 31 May, 2024. Copy of his Death Certificate is taken on record and marked 'X' for identification.
- 3.** Mr. Patil, learned Advocate for the Applicant would submit that he has received the copy of the Death Certificate of the Revision Applicant from his father for placing it before the Court.
- 4.** Mr. Arjunwadkar, learned Advocate for Respondent No.1 does not dispute the same. Though the first name of the Revision Applicant appears to be recorded as OMKAR, there is no reason to disbelieve the death certificate because the permanent address given in the death certificate is the same as that reflected in the Aadhaar Card and the title of the Revision Applications.
- 5.** Both the learned Advocates draw my attention to the impugned judgment dated 30 November 2021 which is appended at Exhibit 'D', page 153 of the Application. The operative part of the said decision reads thus :

(1) The appeal is partly allowed.

(2) The judgment and order dtd. 16-01-2020 passed in Sum. Cr. Case No. 1202/2014 by Ld. Judicial Magistrate, F.C., Court No. 1, Ichalkaranji thereby convicting the accused and ordering him to undergo simple imprisonment of six months is hereby confirmed.

(3) The part of the sentence regarding ordering payment of compensation Rs.5,12,858/- and imprisonment in default of payment is hereby set aside.

(4) The appellant accused shall appear before the Ld. Trial Court within 15 days to undergo the sentence of imprisonment, on his failure to appear in the Trial Court within 15 days, the Ld. trial Court shall issue conviction warrant for execution of the order of sentence of imprisonment and execute it.

(5) R. & P. be returned to the Ld. Trial Court along with copy of this judgment.

6. Mr. Arjunwadkar, learned Advocate for Respondent No.1 would submit that though appeal is partly allowed by the impugned judgment, the private Respondent has not challenged the said judgment for the part which has not been allowed.

7. In that view of the matter on reading the clauses 1, 2 and 3, it is clear that in view of the demise of the Revision Applicant, the present Revision Applications would stand abated.

8. Though Mr. Arjunwadkar would submit to the Court that private Respondent would be entitled to seek appropriate reliefs in respect of the transactions between the parties in view of the fact that the applicant in the present case was the sole proprietary concern of the sole proprietor, who has expired in the *interregnum*, and that the estate of the sole proprietor would stand transferred to his legal heirs.

9. As noted above, since the private Respondent has not challenged the judgment of the Appellate Court dated 30 November, 2021 to the extent of the said appeal which has not been allowed, insofar as the present revision applications are concerned, they would stand abated. However, if any such provision enables the private Respondent to seek any relief in respect of the submissions made by Mr. Arjunwadkar, the private Respondent is free to file appropriate proceedings as available to him strictly in accordance with law.

10. In view of the above, Criminal Revision Applications Nos. 41 of 2022 to 45 of 2022 along with Interim Applications are accordingly disposed.

[MILIND N. JADHAV, J.]