VINA ARVIND KHADPE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO. 551 OF 2022
IN
CRIMINAL APPLICATION (ALP) NO.138 OF 2017

Rampyare Ramanand Upadhyay
since deceased through Lrs.
Ramakant Rampyare Upadhyay … Applicant

In the matter between
Rampyare Ramanand Upadhyay … Applicant
Versus
Shraddha Co-operative Society Ltd and ors. … Respondents

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Mr. Yashodhan V. Divekar a/w Mr. Shubham Jadhav i/b. Divekar & Co. for the Applicant.
Mr. Vatsal Thakkar i/b. Mr. Amol Patankar for Respondent Nos. 1, 2, 3 and 6.
Mr. P. P. Chauhan i/b. Ms. Komal Punjabi for Respondent Nos.4 and 5.
Ms. R. S. Tendulkar, APP for Respondent-State.

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CORAM : M.M. SATHAYE, J.
DATE : 09 OCTOBER, 2026

P.C. :

1. Heard learned Counsel for the parties. Perused the application and the Affidavit-in-Reply filed by Respondent No.1 dated 01.10.2026, which is taken on record.

2. By this Application, son of the original complainant seeks permission to delete the name of the deceased Applicant and to add his name to continue prosecuting the Leave application.

3. It is not disputed that the Applicant is the son of the original

complainant, who had filed complaint against the Respondents for the alleged offences punishable under Sections 425, 447 read with Section 149 of the Indian Penal Code, 1860 (for short, 'IPC'). By order dated 12.01.2015, the concerned Magistrate acquitted the Respondents.

4. The original complainant filed the above Leave Application seeking leave to file appeal against the said order of acquittal. It is not disputed that the leave application filed by the original complainant was filed on 09.04.2015 and the delay caused in filing the said Application was condoned. During the pendency of the Leave Application, the original complainant died on 23.05.2018. Thereafter, by order dated 15.12.2021, this Court granted last chance and time of six weeks was granted to enable the concerned party to take steps for bringing the legal heirs of complainant on record. Thereafter, the present Application is filed on 23.12.2021.

5. Learned Counsel for the Applicant submitted that there is no specific period of limitation provided for such application under criminal law and even if the residuary clause under Limitation Act of three years is applied, the Application would be within time. Relying on the averments made in the Application, he submitted that in the interregnum, due to COVID-19 pandemic, the period of limitation was suspended and the Application was filed within the period of six weeks granted by this Court. He relied upon ***Chand Devi Daga and ors Vs. Manju K. Humatani and ors [(2018) 1 SCC 71]*** in support of his case that no period of limitation is provided for bringing the legal representative of the complainant on record.

6. On the other hand, learned Counsel for Respondent Nos. 1, 2, 3 and 6, relying upon the Affidavit-in-Reply, contended that the delay had not been properly explained. He submitted that the Applicant himself was a witness for complainant and therefore, he can not claim that he had no knowledge of the legal proceedings. He further submitted that there are other legal heirs who have not come forward. He relied on ***State of Madhya Pradesh Vs, Ramumar Choudhary [2024 DGLS(SC) 1226]***, and submitted that, the entire period of delay must be properly explained and that the Court is required to consider what came in the way of a party from filing the necessary proceedings between the first day and last day of limitation.

7. I have considered the rival submissions. There is no dispute about proposition of law laid down in **Ramumar Choudhary (supra).** However, due to very nature of prayer for delay condonation, the consideration depends on facts and circumstances of each case.

8. From the dates explained above, it is clear that within three years from the date of death of the complainant, COVID-19 pandemic commenced in March 2020 and the period of limitation was suspended from 15/3/2020 to 28/2/2022 by Order of the Hon'ble Supreme Court dt. 10/1/22 in Misc. Application No. 21/22 in Misc. Application No. 665/21in Suo Motu Writ Petition (C) No. 3 of 2020. It is also clear for the above dates that, in the interregnum, under the order of this Court dated 15.12.2021, six weeks time was granted, and the Application was filed in December 2021 i.e. before February, 2022. The Applicant has pleaded the reason of COVID-19 pandemic

in paragraph no. 4 of the Application.

9. It is true that the Applicant was a witness in support of the complainant and therefore, he was aware of the legal proceedings. However, since no specific period of limitation is shown to be applicable for the case in hand, assuming that residuary clause under Article 137 of the Limitation Act applies, the Application is filed within time considering suspension of limitation during the Corona pandemic.

10. So far as the submission that 'there are other legal heirs of the complainant but only complainant's son has come forward' is concerned, the said position is accepted even by the Applicant that he is one of the legal heirs and he is only representing the Complainant for prosecuting the complaint.

11. In the aforesaid facts and circumstances and for the reasons indicated above, sufficient cause is made out. **Interim Application is allowed.** Delay, if any, is condoned. The Applicant is permitted to bring himself on record as legal representative of the deceased complainant. Amendment to be carried out within a period of one week.

12. Place the Leave Application on 23.10.2026 for 'disposal' after urgent / circulated matters.

13. Interim Application is disposed of in above terms.

(M.M. SATHAYE, J.)