

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRA-S-962-SB-2010 (O&M)
Date of Decision: 22.04.2025****GURJANT SINGH****.....APPELLANT****Vs.****STATE OF PUNJAB****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present: Mr. Adish Jain, Advocate and Mr. Nishtha Garg, Advocate
for the appellant.

DEEPAK GUPTA, J.

Appellant-Gurjant Singh was convicted by the Court of learned Special Judge, Moga under Section 7 and Section 13(2) of Prevention of Corruption Act, 1988 vide judgment dated 30.03.2010 in a case arising out of FIR No.40 dated 26.07.2007, registered at Police Station Ferozepur under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988. Vide a separate order of even date, he was sentenced to undergo rigorous imprisonment for a period of 1 ½ year and to pay a fine of ₹2,200/- for committing the aforesaid offence besides the default sentence.

2. Against the aforesaid conviction and sentence, the present appeal was filed by way back in 2010. The appeal was admitted on 10.04.2010 and the sentence was directed to remain suspended vide order dated 27.04.2010.

CRM-10775-2025

3. This CRM-10775-2025 is moved by applicant-Jasbir Kaur to place on record death certificate of the appellant as Annexure A-1. Application is Allowed. Annexure A-1 is taken on record which would reveal that applicant-Gurjant Singh has since expired on 23.04.2016.

CRM-10776-2025 and CRM-10777-2025



4. Application bearing CRM-10776-2025 is moved under Section 5 of the Limitation Act read with Section 528 of BNSS, 2023 to condone the delay of 3214 days in filing the application for leave to continue the appeal. CRM-10777-2025 is moved under Section 435 (2) proviso read with Section 528 of BNSS, 2023 for leave to continue the appeal. Prayer is further made by way of CRM-10778-2025 to fix the actual date of hearing.

5. Reply to the application has been filed by the respondent-State, strongly opposing the application to condone the huge delay of 3214 days in filing the application for leave to continue the appeal.

6. Section 394 of the Code of Criminal Procedure 1973, which is applicable in the present case, reads as under:-

'394. Abatement of appeals.—(1) Every other 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.'

7. It is evident from the abovesaid provision that every appeal as filed under Section 377 or 378 Cr.P.C shall abate on the death of the accused. Any other appeal, except an appeal from a sentence of fine, is to abate on the death of the appellant. However, the proviso provides that if appeal is against conviction and sentence of death or of an imprisonment is imposed and the appellant dies during the pendency of the appeal, any of his near relative (who includes parent, spouse, brother, sister or lineal descendant) may seek leave to continue the appeal, within 30 days of the death of the appellant and in case, the leave is granted, then the appeal shall not abate.



8. In the present case, the applicant is the widow of deceased appellant-Gurjant Singh. Appellant had died on 23.04.2016 and the application seeking leave to continue the appeal has been moved on 11.03.2025 with a delay of 3214 days i.e. much beyond the permitted period of 30 days.

9. The ground mentioned in the application seeking condonation of huge delay of 3214 days is that applicant came to know about pendency of the appeal only in January 2025, when she approached the employer of her husband for family pension, which would have become applicable to her on account of appellant's death.

10. I am afraid that the reason for delay as given by the appellant is absolutely not justiciable. As the appellant had expired in April 2016, it is obvious that the applicant would have become entitled for family pension, immediately after the death of the appellant. It is not believable that for a period of more than 09 years, she was not aware about the pendency of the appeal despite the fact that family pension could not have been paid to her during this long period.

11. In the aforesaid facts and circumstances, this Court does not find any justiciable ground so as to condone the huge of delay of 3214 days in filing the application for leave to continue the appeal.

12. As such, application bearing CRM-10776-2025 is hereby dismissed. Consequent thereto, application bearing CRM-10777-2025 seeking leave to continue the appeal is also dismissed. Other connected application(s), if any, shall also stand disposed of.

13. Since the appellant has expired and leave to continue the appeal to the applicant-spouse of the appellant has been declined, therefore the present appeal stands disposed of having abated.

22.04.2025

Pry

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned? Yes
Whether reportable? Yes