



2026:CGHC:14747

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 642 of 2017

1 - Kailash Barkade S/o Gendlal Barkade, Aged About 48 Years R/o Kandrapara, Ward No. 19, Dongargarh, Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

... Appellant(s)

versus

1 - State Of Chhattisgarh Through Station House Officer, Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

... Respondent(s)

For Appellant(s)	:	Shri Roshan Singh Lamba, Advocate on behalf of Shri B.P.Singh, Advocate
For Respondent/State	:	Shri Avelyn Juneja Gambhir, PL

(Hon'ble Shri Justice Arvind Kumar Verma)

Judgment on Board

30/03/2026

Learned counsel appearing for the appellant submits that during the pendency of the present criminal appeal, the appellant namely Kailash Barkade has expired on 16.10.2024. It is further submitted that the said factum of death has been duly verified and confirmed by



placing on record the death certificate issued by the competent authority. He therefore contended that the present appeal does not survive and deserves to be abated.

2. Learned counsel for the State has no objection to the said proposition.

3. Having heard learned counsel for the parties and on perusal of the record, it is evident that the sole appellant has expired during the pendency of the appeal. The question that arises is whether the appeal survives after the death of the appellant.

4. At this juncture, reference may be made to Section 394 of the Code of Criminal Procedure, 1973, which governs the abatement of criminal appeals. As per the said provision, every appeal under Chapter XXIX of CrPC shall finally abate on the death of the accused, except in cases where the appeal is against a sentence of fine, or where near relatives seek leave to continue the appeal.

5. The Supreme Court in ***Harnam Singh v. State of Himachal Pradesh (1975) 3 SCC 343*** held that where the sentence includes fine, the appeal does not automatically abate as the liability may affect the estate of the deceased. Further, in ***Bondada Gajapathi Rao v. State of Andhra Pradesh, AIR 1964 SC 1645***, Supreme Court observed that criminal appeals involving pecuniary liability can be continued by legal representatives as the estate of the deceased is affected.

6. Similarly, in ***State of Kerala v. Narayani Amma Kamala Devi, AIR 1962 SC 1530***, it has been held that where the sentence is purely personal, such as imprisonment, the appeal abates on the death of the accused.



7. In the present case, the appeal pertains to personal criminal liability of the appellant, and no material has been brought on record to show that the sentence involves any fine affecting the estate, nor has any application been moved by legal representatives seeking continuation of the appeal. In criminal jurisprudence, where the appeal pertains to personal liability and no question of fine affecting the estate survives, the appeal abates upon the death of the appellant.

8. In the light of the statutory mandate under Section 394 Cr.P.C. and the law laid down by the Supreme Court, this Court is of the considered view that the since no application has been moved for continuation of the appeal by any legal representative, and the conviction does not involve recovery affecting the estate, no further adjudication is warranted.

9. Accordingly, the present appeal stands abated.

Sd/-

(Arvind Kumar Verma)

Judge