



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE SHIVASHANKAR AMARANNAVAR

CRIMINAL APPEAL NO. 165 OF 2012

BETWEEN:

HASSAN DISTRICT - 573 201.

...APPELLANT

(BY SRI. GIRISH B BALADARE, ADVOCATE)

AND:

STATE BY CESCO VIGILANCE
POLICE STATION, HASSAN.

...RESPONDENT

Digitally signed by
SANDHYA S
Location: High
Court of Karnataka

(BY SRI. S VISHWAMURHTY, HCGP)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER DATED:26.12.11 PASSED BY THE ADDL. S.J., AND SPL. JUDGE, HASSAN IN SPL.C.NO.94/08 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 135 AND 138 OF ELECTRICITY ACT, 2003 AND ETC.,

THIS APPEAL, COMING ON FOR ORDERS THIS DAY, THE COURT DELIVERED THE FOLLOWING:



JUDGMENT

The accused has filed this appeal challenging the judgment of conviction and order of sentence dated 26.12.2011 passed in Spl.case No. 94/2008 by the Additional Sessions Judge and Special Judge, Hassan, whereunder the appellant accused has been convicted for the offence punishable under Section 135 and 138 of Indian Electricity Act, 2003 (for short hereinafter referred to as 'the Act') and sentenced to pay fine of Rs.24,204/- for the offence under Section 135 of the Act and sentenced to pay fine of Rs.5,000/- for the offence under Section 138 of the Act.

2. Learned counsel for the appellant has filed a memo on 12.01.2023 reporting the death of the appellant enclosing copy of his death certificate. As per the death certificate the appellant died on 06.04.2019.



3. Section 394 of Cr.P.C. deals with abatement of appeals and it reads thus:

"394. Abatement of appeals.-(1) Every 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."

An appeal from a sentence of fine will not abate on the death of the appellant.



4. In the present case appellant has been sentenced to pay fine only and therefore on the death of the appellant the appeal will not abate.

5. Death of the convict does not discharge him from liability from paying fine and compensation imposed by Court and property which goes to his legal heirs after his death is legally liable for the same. As per the proviso to Section 394 Cr.P.C. near relatives of the appellant, within 30 days of the death of the appellant, apply to the appellate Court for leave to continue the appeal.

6. The appellant died on 06.04.2019 and no such application is filed by his near relatives to continue the appeal. Learned counsel for the appellant submits that the legal heirs of the appellant are not interested in making any such application. Hence, the property of the appellant which goes to his legal heirs after his death is legally liable for payment of the fine amount. Hence, in view of the



death of the appellant, the appeal is dismissed. The trial Court is directed to initiate proceedings to recover the fine amount imposed on the accused from his estate which is inherited by the legal heirs of the appellant on his death.

**Sd/-
JUDGE**

LRS
List No.: 1 SI No.: 11