

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL MISC.APPLICATION NO. 9535 of 2023****With****R/CRIMINAL APPEAL NO. 1234 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9537 of 2023****In****CRIMINAL APPEAL NO. 1235 of 2023****With****R/CRIMINAL APPEAL NO. 1235 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9541 of 2023****In****CRIMINAL APPEAL NO. 1238 of 2023****With****R/CRIMINAL APPEAL NO. 1238 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9543 of 2023****In****CRIMINAL APPEAL NO. 1239 of 2023****With****R/CRIMINAL APPEAL NO. 1239 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9546 of 2023****In****CRIMINAL APPEAL NO. 1241 of 2023****With****R/CRIMINAL APPEAL NO. 1241 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9548 of 2023****In****CRIMINAL APPEAL NO. 1242 of 2023****With****R/CRIMINAL APPEAL NO. 1242 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9550 of 2023****In****CRIMINAL APPEAL NO. 1243 of 2023****With****R/CRIMINAL APPEAL NO. 1243 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9698 of 2023****In****CRIMINAL APPEAL NO. 1265 of 2023****With****R/CRIMINAL APPEAL NO. 1265 of 2023****With****R/CRIMINAL MISC.APPLICATION NO. 9700 of 2023****In****CRIMINAL APPEAL NO. 1266 of 2023****With**

R/CRIMINAL APPEAL NO. 1266 of 2023
With
R/CRIMINAL MISC.APPLICATION NO. 9701 of 2023
In
CRIMINAL APPEAL NO. 1267 of 2023
With
R/CRIMINAL APPEAL NO. 1267 of 2023
With
R/CRIMINAL MISC.APPLICATION NO. 9793 of 2023
In
CRIMINAL APPEAL NO. 1280 of 2023
With
R/CRIMINAL APPEAL NO. 1280 of 2023
With
R/CRIMINAL MISC.APPLICATION NO. 9800 of 2023
In
CRIMINAL APPEAL NO. 1283 of 2023
With
R/CRIMINAL APPEAL NO. 1283 of 2023

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JAYANTIBHAI NARANBHAI PATEL

Versus
STATE OF GUJARAT

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Appearance:

MR ASHISH M DAGLI(2203) for the Applicant(s) No. 1
for the Respondent(s) No. 2,3,4,5,6,7

MS MONALI BHATT ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM:HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 19/07/2023

COMMON ORAL ORDER

1. At the outset, Mr. Dagli, learned advocate for the applicant – original complainant, submits that respondent No.6 – original accused has passed away pending the trial. In view of the same, present matters stand abated qua respondent No.6.

2. Heard Mr. Ashish Dagli, learned advocate for the applicant – original complainant.

3. As directed by this Court, learned advocate for the applicant has placed on record the relevant documents in the form of paper

book. He has invited attention of this Court to the fact of the case and has submitted that in the arbitration proceedings before the Court of learned Civil Judge, Nadiad, the order of status-quo was initially granted in favour of the complainant. Pursuant to the attempt made, the settlement was arrived at between the parties and the amount was settled for Rs.49.75 Lakhs. Even the Memorandum of Understanding was executed by the accused in the presence of Arbitrator as well as learned advocates representing the respective parties have signed the document. It is the case of the complainant that as agreed between the parties, the pending proceedings were to be withdrawn subject to realization of the aforesaid amount. Since the cheques were presented for realization of the aforesaid amount, the same were not honoured in absence of amount being realized the proceedings were not withdrawn. He under the instructions, submits that no amount has been realized subsequently from the accused, as agreed between the parties in the arbitration proceedings. He further submits that in fact, the proceedings have been withdrawn by the complainant and it is the accused, who have failed to abide by the Memorandum of Understanding. He, therefore, urged this Court to grant leave to appeal.

4. Considering submissions of the learned advocate for the applicant, let Notice be issued upon the respondents, making it returnable on 09.08.2023. Learned APP waives service of Notice on behalf of the respondent No.1 – State. The respondent Nos.2 to 7 be served through the concerned police station.

Y.N. VYAS

(NISHA M. THAKORE,J)