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**(2012) 02 P&H CK 0182**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Appeal No. S-48-SB of 2009 (O&M)**

State of Haryana

APPELLANT

Vs

Pirithi Singh

RESPONDENT

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**Date of Decision : 29-02-2012**

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 378(3), 394  
Prevention of Corruption Act, 1988 — Section 13, 7

**Citation : (2012) 2 RCR(Criminal) 408**

**Hon'ble Judges : Rakesh Kumar Garg, J**

**Advocate : Mr. Amandeep Singh, AAG, Haryana, Mr. K.S. Dhanora, Advocate.,  
Advocates for appearing Parties**

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## **Judgement**

Rakesh Kumar Garg, J.(Oral)

1. FIR No. 15 dated 13.09.2005, under Sections 7 and 13 of the Prevention of Corruption Act, 1988, was registered at Police Station S.V.B., Ambala, against Prithi Singhrespondent.
2. The aforesaid respondent faced trial and vide impugned judgment dated 09.05.2008 passed by Special Judge, Kurukshetra, acquitted the accused respondent of the charges levelled against him.
3. The State of Haryana filed the instant petition under Section 378(3) Cr.P.C. for grant of leave to appeal against the impugned judgment of acquittal, which is pending for regular hearing, after admission.
4. It is not in dispute that respondentPrithi Singh had died on 04.04.2010.
5. Noticing the aforesaid fact, the main appeal was ordered to be listed for today.
6. The LRs of the respondent have filed an application stating that the appeal in question has abated.
7. Section 394 of the Cr.P.C. reads as follows :

"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.

8. After noticing the judgments in *Bondada Gajapathi Rao v. State of Andhra Pradesh* (AIR 1964 SC 1645) and *Harnam Singh v. the State of Himachal Pradesh* (1975(3) SCC 343), the Hon"ble Supreme Court in the case of *State of A.P. v. Narasimha Kumar and others* 2006(2) Apex Criminal 609: SC 2006(3) RCR (Criminal) 559, while interpreting the provisions of Section 431 (which are para materia to 394 Cr.P.C of 1976) of the Code of Criminal Procedure, 1898 (in short the "Old Code"), held that a petition for leave to appeal against acquittal shall abate upon the death of the accused respondents.

9. Learned State counsel was unable to controvert the proposition of law as laid down by the Hon"ble Supreme Court in the aforesaid judgment.

10. In view of the aforesaid judgment, this petition for leave to appeal is ordered to be dismissed having been abated.