

KACB010014462025



**IN THE COURT OF THE III ADDL. DISTRICT &
SESSIONS JUDGE, CHIKKABALLAPURA.**

PRESENT

SHRI. SIDDANNA B. HANDRAL.
B.Sc.,LL.B (Spl).
III Addl. Dist. & Sessions Judge,
Chikkaballapura.

CRIMINAL REVISION PETITION No.27/2025

DATED THIS THE 25th DAY OF AUGUST, 2026

PETITIONER : Sri.Aslam Pasha,
S/o.Mahaboob Sab,
Aged about 45 years,
R/at Near M S S Convent,
Kakana Thopu,
Gowribidanur,
Chikkaballapura District.
(By Sri. N.V., Advocate)

VS

RESPONDENTS 1. N.Mohan,
S/o. Late G.Narasimhaiah,
Aged about 46 years.

2. Smt. Nagaveni,
D/o. G.Narasimhaiah,
Aged about 38 years.

Both are R/at Sumangali Badavane,
Gowribidanur Town,
Chikkaballapura District.

(By Sri. K.N.M./T.A. Adv. for R-1,
Sri.M.R. Adv. for R-2)

ORDER

Being aggrieved by the order passed in CC No.500/2017 dated 20.8.2018 on the file of learned Prl. Civil Judge and J.M.F.C., Gowribidanur, the petitioner has preferred the present revision petition U/Sec.438 of BNSS.

2. For the sake of convenience the parties herein are referred to as per there litigative status/rank before the trial court.

3. It is submitted that, PCR No.73/2016 has been filed by one G.Narasimhaiah for the offence punishable U/S.138 of N.I. Act against the accused revision petitioner herein, later it was renumbered as CC No.500/2017 on the file of Prl. Civil Judge and JMFC, Gowribidanur. On 18.9.2024 the counsel for the accused filed memo with citations and addressed arguments, the matter was adjourned to 27.9.2024 for reply arguments on that day the counsel for the complainant prayed time, the matter was adjourned to 3.10.2024 for reply arguments, on 1.10.2024 the counsel for accused got advanced the case from 3.10.2024 and filed a memo with citations and the trial Court heard the arguments of counsel for accused and the mater was posted to 3.10.2024 for reply arguments. On 3.10.2024 instead of giving reply to the arguments addressed by the counsel for

accused, the complainant with a malafide intention to mislead the trial court second time has filed a memo with death certificate of LR of the original complainant i.e. C- 1 reporting the death of the complainant no.1, which had already been on record on 20.9.2022 a memo reporting the death of the LR of complainant no.1 Bhagyalakshamma died on 14.8.2022 along with a death certificate was filed by the Lrs of the original complainant / respondents herein.

4. It is further contended that, on 10.10.2024 the counsel for the accused has filed statement of objections to the said memo and matter was posted on 20.11.2024 to hear on memo and the said memo filed by the Lrs of complainant No.1 stating that, Lrs of complainant No.1 are already on record as such the court ought to have directed the counsel for complainant to address his reply arguments inspite of passing orders erroneously on 23.11.2024 on memos dated 3.10.2024 and 20.11.2024 wherein the unsought relief was granted.

5. It is also contended that, the memos filed by the Lrs of complainant is not for the purpose of to carry out the amendment of the complaint and second time original death certificate of C-1 was filed with memo dated 3.10.2024, but in the memo dated 20.11.2024 it has been stated that, all the Lrs of complainant No.1 are already on record, as such, the question of amending the complaint as per the order dated 21.3.2024 does not arise at all. Hence, on 27.11.2024 the

accused has filed a memo for recalling the order dated 23.11.2024 and on 9.1.2025 the Lrs of complainant filed their objections to the said memo and the trial court dismissed the said memo on cost of Rs.300/- as per order dated 23.4.2024. Admittedly there was no order dated 23.4.2024 by the trial court and two memos were filed on 3.10.2024 and 20.11.2024 and not prior to 23.4.2024 as such impugned order is not sustainable one as the direction given to the complainant to amend the complaint as per order dated 23.4.2024 is earlier to memos dated 3.10.2024 and 20.11.2024 is liable to be set aside by this court on the following grounds.

GROUND

- i. The order under challenge is not maintainable either in law or on facts of the case and liable to be set aside by this Court.
- ii. The trial court ought to have observed that the Lrs of the complainants are dragging on the proceedings without addressing reply arguments after the counsel for the accused completed his arguments on merits.
- iii. The Trial judge fails to appreciate that the death of LR of complainant No.1 is undisputed the said fact was brought to the notice of this court on 20.9.2022, as such filing of memo dated 3.10.2024 for the second time along with a death certificate is unnecessary and uncalled for one.

- iv. The Trial judge failed to observe that at any point of time there was no prayer for amending complaint by the Lrs of the complainant No.1/ respondents herein as such the unsought prayer ought not to have been granted.
- v. The Trial judge failed to observe that original death certificate of LR of complainant no.1 was produced along with a memo dated 3.10.2024 which does not requires any order.
- vi. The learned judge failed to observe that in memo dated 20.11.2024 the LR of the complainant has stated that Bhagyalakshmamma was died on 14.8.2022 her Lrs are already brought on record in the above case, as such there was no prayer by the Lrs of the complainant to amend the complaint, as such the learned Judge erred in principle in granting the relief which is unsought by the Lrs of complainant No.1/ respondents herein in memo dated 20.11.2024.
- vii. The learned judge ought to have allowed memo dated 27.11.2024 by recalling the impugned order dated 23.11.2024 passed on memos dated 3.10.2024 and 20.11.2024.
- viii. The trial court failed to observe that the Lrs of the complainant have admitted the fact that illegality, unlawfulness in the statement of objections filed by them to the memo dated 27.11.2024 filed by the accused to recall the order dated 23.11.2024.

- ix. The reported decision is not applicable to the case on hand, it is applicable for a different context of the case.
- x. The Lrs of the complainant No.1 / respondents herein did not took any steps nor made any attempt to rectify the impugned order dated 21.8.2025 as it date backs to 23.4.2024 prior to filing of their memos dated 3.10.2024 and 20.11.2024.
- xi. The reasoning of the trial court while dismissing the memo dated 27.11.2024 filed by the accused / revision petitioner herein is bad in law, liable to be set aside.
- xii. If, the order under challenge remains as it is it becomes bad precedent, the order ought to be subsequent to any memo or application or it shall not be preceded to memo or application. On these and other grounds to be urged at the time of hearing of the revision petition, the order under challenge is liable to be set aside by this Court.

6. After filing of this revision petition, notice was issued to the respondents and respondents appear before the court through their counsel and the objections to the I.A.No.I by the respondent taken as nil.

7. On the basis of materials placed on record and having heard the arguments by counsel for petitioner the following point arise for consideration;

- 1. Whether revision petitioner has made out acceptable grounds to set aside the

impugned order dated 21.08.2025 passed on memo dated 27.11.2024 in CC 500/2017 by the learned Prl. Civil Judge & JMFC, Gowribidanur ?

2. What order?

8. The above points are answered as under:

Point No.1: In the Negative

Point No.2: As per the final order

For the following:

REASONS

9. **POINT No.1:** This Criminal Revision Petition is filed by the Revision petitioner challenging the order dated 21.8.2025 passed by the learned Prl. Civil judge and JMFC, Gowribidanur in CC No.500/2017 (arising out of PCR No.73/2016).

10. Brief facts of the case is that, a private complaint U/S.138 of Negotiable Instrument Act was initiated by the complainant against the accused in PCR No.73/2016, later renumbered as CC No.500/2017, thereafter summons was issued to the accused, during that time on 28.11.2017 the counsel for the complainant filed memo reporting the death of complainant and case was posted for steps and thereafter on 5.7.2019 counsel for complainant filed application U/S.256(2) of Cr.P.C. for bringing the Lrs of the deceased original complainant on record and to prosecute the case.

The trial court has issued notice of the said application to the accused and in turn the accused on 22.12.2020 appeared through his counsel and got enlarged on bail and case was posted on 4.3.2021 for recording of plea. On the said day the learned counsel for the accused submitted no objection to allow the I.A. filed U/S.256(2) of Cr.P.C., and after hearing the both sides the said application was allowed and the trial court has also received the vakalath filed by one Sri.R.C. Advocate on behalf of the legal heirs of the complainant dated 20.11.2018.

11. It is also seen from the order sheet dated 4.3.2021 that, the list of documents filed dated 14.2.2019 on behalf of the Lrs of original complainant including the special power of attorney executed by wife and daughter of the deceased original complainant in favour of her son and brother to prosecute the case on their behalf and the said documents were also taken on record and permitted the deceased complainant's son to prosecute the case on behalf of his mother and sister and the trial court has also directed the complainant to carry out necessary amendment and to file the amended complaint on the next date of hearing and substance of accusation was also read-over and explained to the accused and he pleaded not guilty and case was posted for pre-conciliation of both parties on 16.3.2021, thereafter case was posted for settlement on 27.3.2021, but the matter was not settled and case was posted for the objections of accused if any and thereafter on 27.4.2022 the counsel for

accused filed objections to the amended complaint and case was posted for enquiry of Lrs of deceased complainant on 28.6.2022, 1.8.2022, 13.8.2022, 20.9.2022 and on 20.9.2022 the counsel for complainant filed a memo stating that, C-1 i.e. wife of the original complainant is dead and case was posted on 18.10.2022 for enquiry and again it was posted on 12.11.2022 before the Lok-Adalath and on that day the case was not settled and again posted before the court on 25.1.2023, 14.3.2023 and on that day the counsel for accused submitted that, question of improper amended complaint may be tried and answer along with merits, hence the trial court ordered that, the question with respect to concerned with regard to correctness of the amended complaint will be answered along with merits and on that day the complainant No.1(2) filed his sworn statement by way of affidavit and examined as PW.2 and counsel for complainant also filed memo adopting previously marked exhibits i.e. Ex.P-1 to P-5 and the same was allowed and posted for cross of PW-2 on 25.4.2023, thereafter case was posted on 25.4.2023, 9.5.2023, 24.5.2023, 12.6.2023, 8.8.2023, 25.9.2023, 30.10.2023 and on that day PW.2 was partly cross examined and again case was posted on 19.12.2023 on that day PW.2 was fully cross examined and thereafter case was posted for recording of statement of the accused U/S. 313 Cr.P.C. on 5.1.2024, 5.2.2024 and 9.2.2024 on that day statement of the accused recorded and case was posted for defense evidence on 18.3.2024, 26.3.2024, on that day

accused examined as DW.1 partly, thereafter posted on 15.4.2024 and 3.6.2024 and on that day accused lead his further examination in chief and case was posted for cross examination of the accused on 8.7.2024, 29.7.2024, 20.8.2024 and on that day accused was fully cross examined and case was posted for arguments on 2.9.2024, 9.9.2024, 12.9.2024, 18.9.2024, 27.9.2024, 3.10.2024 and on that day counsel for complainant filed memo with death certificate of Lr of the complainant i.e. C-1 and case was posted for objections to the said memo and on 7.10.2024 objections were filed by the accused, and case was posted on 11.11.2024 for hearing and on that day counsel for complainant filed memo stating that Lrs of complainant No.1 are already on record and on that day the counsel for accused also present the trial court heard by the counsel for accused and posted on 23.11.2024 and on that day the trial court heard by the complainant side and accused side and posted for orders on the memos and on that day itself the trial court has passed on the memos dated 3.10.2024 and 20.11.2024 by allowing the said memos with cost of Rs.500/- and the complainant No.2 is permitted to carry out the amendment as per the memos and posted the case on 26.11.2024 for amendment of the complaint and on 27.11.2024 the counsel for accused filed memo seeking to recall the order dated 23.11.2024 and trial court was heard on the memo by both sides and posted for objections on 29.11.2024 and on 9.1.2025 and on that day objections filed

by the complainant and posted for hearing on 3.2.2025, 25.2.2025, 13.5.2025, 9.7.2025, 28.7.2025, 16.8.2025 and on that day heard both sides on memo dated 27.11.2024 and posted the case on 21.8.2025 for orders and on that day the trial court has dismissed the memo filed by the accused with costs and directed for amendment of complaint as per order dated 23.4.2024.

12. Now the accused has preferred this Revision Petition challenging the order dated 21.8.2025 by contending that, the petitioner has filed memo on 27.11.2024 to recall the order dated 23.11.2024 passed on memos dated 3.10.2024 and 20.11.2024 wherein permitted the complainant No.2/ respondent No.1 herein to carry out amendment as per the memos which have not been sought by the respondent No.1 herein, that apart directing the complainant to carry out the amendment as per order dated 23.4.2024 and on that day no order has been passed by the trial court which is earlier to 160 and 207 days from the date of filing of the memos dated 3.10.2024 and 20.11.2024 respectively i.e. first the order was preceded subsequently memos have been filed which is bad in law and facts, hence the impugned order is unsustainable one and liable to be set aside.

13. On careful considering the rival arguments of learned counsel for the petitioner and respondent and scrutiny of the materials placed before this court it appears

that, during the pendency of the proceedings the original complainant passed away and his legal heirs i.e. complainant No.1, 2 and 3 were brought on record to prosecute the matter with the consent of the accused itself and the original complaint was also amended as per order dated 4.3.2021, hence there is no dispute by the accused with regard to bringing of legal heirs of deceased original complainant on record.

14. It is also seen from the order sheet dated 2.3.2022 the counsel for accused filed objections to the amended complaint and thereafter on 20.9.2022 the counsel for complainant filed memo reporting the death of complainant No.1 (a) and as per order dated 14.3.2022 and as per the submission made by the counsel for accused, the trial court has ordered to consider the question of alleged improper amendment of the complaint along with merits of the case. Thereafter the trial court has heard the memo filed by the accused at the time of hearing on the arguments i.e. while considering the case on merits as per order dated 14.3.2022, therefore, at this stage the accused cannot be permitted to take turn and challenge the impugned order.

15. The direction given by the trial court to carry out amendment of the complaint is purely a consequential of order passed by the trial court on the application filed U/S.256(2) of Cr.P.C., by the complainant that too it was allowed with consent of the accused and Lrs were brought on

record to prosecute the case, therefore when the legal heirs are legally permitted to come on record to prosecute a complaint, updating or amending the cause title of the complaint i.e. the substance of the complaint to reflect the substitution of Lrs is a formal ministerial necessity but not a substantial alteration of acquisition. The main object of the acquisition U/S.138 of N.I. Act is regarding the dis-honour cheque remains entirely unchanged. The trial has already completed by way of recording the evidence and also statement of the accused U/S.313 Cr.P.C., also recorded and the defense evidence was also recorded, therefore allowing the surviving legal heirs to correct the cause title of the complaint inflicts no prejudice upon the defense of the accused.

16. In addition to the above, the very memo dated 27.11.2024 filed by the petitioner for recall of order dated 23.11.2024 is essentially sought for recall of order passed by the learned Magistrate. It is settled law that, a criminal court does not have inherent power to review or recall its own judicial order, therefore the learned Magistrate was right in dismissing the memo, on this count also the revision petition filed by the petitioner is not maintainable.

17. It is also one of the specific ground in this Revision petition is, the learned Magistrate failed to observed that in memo dated 20.11.2024 the Lr of the complainant stated that, Bhagyalakshmamma was died on 14.8.2022, her

Lrs are already brought on record in the above case, as such there was no prayer by the Lrs of the complainant to amend the complaint, as such the learned Judge erred in granting the relief which was unsought by the Lrs of the complainant. It is also contended that, the complainant No.1 / respondents herein did not take any steps nor made any attempt to rectify the impugned order dated 21.8.2025 as it dates back to 23.4.2024 prior to filing of their memos dated 3.10.2024 and 20.11.2024.

18. The entire plea of petitioner rest on chronological paradox- i.e. specifically the trial court directions for amendment dated 23.4.2024 which chronologically predates the Lrs filing memos dates on 3.10.2024 and 20.11.2024. On careful perusal of the impugned order passed by the trial court it appears that, the trial court instead of mentioning the date of order for amendment of complaint as per order dated 23.11.2024 it has been wrongly shown as as per order dated 23.4.2024, this gives a clear clerical error therefore a date error found in the order sheet is nothing but typographical error, under the doctrine of de minimus non curatlex [the law does not concern itself with trifles], an accidental typing error regarding a date does not ruled out the undisputed factual substrate, i.e. the original LR i.e. complainant No.1 Bhagyalakshmamma died on 14.8.2022 and the record must shows the living parties in the cause title.

19. It is also settled law that, in a complaint proceedings initiated U/S.138 of N.I. Act, the proceedings do not automatically abate upon the death of the complainant or Lrs of the complainant, when surviving Lrs present and filed memo before the court and they satisfy the requirement of judicial notice, in such circumstances demanding a separate and meticulous formal application to amend the cause title is nothing but a hyper technical approach under the law. The trial court rightly passed the impugned order i.e. when a party dies, amending the cause title of the complaint is an institutional ministerial duty to keep the court records functionally. Therefore, the arguments canvassed by the learned counsel for the petitioner is not sustainable, as the trial court rightly dismissed the memo filed by the petitioner by relying upon the decision of Hon'ble Supreme Court of India reported in **(2019) 1 NIJ 52- [S.K.Tamasuddin VS Joy Joseph Credo]**.

20. It is also relevant here to mention here that, on perusal of the records it appears that, the present case is pending before the trial court since the year 2016 after a decade, the trial completed and case was posted for arguments, at this stage the accused has filed a memo for recall of the impugned order and even after dismissal of the same on cost by the trial court has approached this court is appears to be the accused used this forum as a tool to expand the life span of the cheque bounce case. The Negotiable Instrument Act commands summary execution

and quick disposal, moving higher courts over a typographical error in an inter mediate memo defeats the object of the act and legislative spirit of the summary frame work, on this count also the Revision filed by the petitioner is liable to be rejected.

21. It is a settled position of law that, clerical, arithmetical or typographical errors in dates such as reference in this case i.e. 23.4.2024 instead of the actual order date 23.11.2024 do not invalidate the substance of impugned order or direction given by the trial court since the court retains an inherent power to rectify such over sights. It is also important here to mention that, the Hon'ble Supreme Court of India in the decision reported in **(2015) 9 SCC 609 - [S.R. Sukumar VS S.Sunaad Raghuram]** wherein it is held that, while there is no specific provision in the code of criminal procedure 1973, to amend a complaint, an amendment that is purely procedural, does not change the core nature of the case, and causes no prejudice to the accused can be permitted. Hence by applying the above principles of law to the present facts of the case rectifying the cause title following a death of Lr is entirely a curable procedural steps. In another decision of Hon'ble Apex Court of India reported in **(2018) 1 SCC 71- [Chand Devi Daga and Ors VS Manju.K. Humatani and Ors.]** wherein it is held that, upon the death of a complainant in a criminal case, the legal heirs / representatives can validly step into continue the prosecution. A minor clerical error or omission in an

amendment application does not strict the statutory rights of the Lrs.

22. Therefore, for the above said reasons, the impugned order passed by the trial court does not suffer from any legal infirmity or opposed to any legal principles of law or against the principles of natural justice, on the contrary the impugned order passed by the trial court i.e. directing to amend the complaint is strictly in accordance with law. However in the operative portion the trial court has wrongly mentioned the order dated as 23.4.2024 instead of 23.11.2024 and the said mistake is appears to be a pure clerical error and same can be rectified by this court by giving specific direction to the trial court. Hence, with these observations the revision petition filed by the petitioner is liable to be dismissed. Accordingly for the above said reasons this point is answered as **Negative**.

23. **Point No.2:** In the light of discussion made at above and findings given by this court in the above point it is just and proper to proceed to pass the following order.

ORDER

Crl. Revision Petition filed by the petitioner
U/s.397 of Cr.P.C., / 438 of BNSS is hereby
DISMISSED.

The impugned order passed in CC
No.500/2017 dated 20.8.2018 by the learned Prl.

Civil Judge & JMFC, Gowribidanur is hereby
CONFIRMED.

However the trial court is directed to correct typographical or arithmetical date crept in the operative portion of the order dated 21.8.2025 regarding the amendment order on its order sheet and proceed with the trial on its merits.

The trial court is directed to expedite the hearing and dispose of the main matter expeditiously after rectifying the correct date regarding the amendment order in the order sheet as ordered by this court.

Send a copy of this order to the trial court.

(Dictated to the Stenographer online, computerized by her, script corrected, signed and then pronounced by me in the open Court on this the 25th day of August- 2026)

(Siddanna B. Handral)
III- Addl. District and Sessions Judge,
Chikkaballapura.