

ORDER ON APPLICATION FILED
UNDER SECTION 302 OF Cr.P.C
R/W SECTION 142 OF N.I ACT

The present application is filed by the wife of the deceased complainant seeking an order of this court permit to continue the case as the legal representative of the deceased complainant.

2. It is stated in the application that the present case is instituted by the deceased complainant against the accused for the offence punishable under section 138 of N.I Act. After the summons, accused appeared before the court and in the meantime, complainant died. Further, she is the wife of the deceased complainant and she wants to continue the proceedings. Hence, prayed for allow the application and permit her to prosecute the case.

3. Counsel for the accused has not raised any objection to the aforesaid application.

4. Having heard the complainant counsel, the court scrutinized the application and other materials made available on record.

5. The present complaint is filed by the complainant by name Sri.K.R.Rudresh S/o K.C.Rangegowda under section 200 of Cr.P.C., for the offence punishable under section 138 of N.I Act. During the pendency of the

case, counsel for the complainant has reported that he was dead. The present application is filed by the wife of the complainant seeking permission to prosecute the case.

6. Admittedly, the defence has not raised any objection to the present application. The applicant in order to show the death of the complainant, produced the death certificate, which substantiate that complainant by name K.R.Rudresh was died on 01.12.2022. Applicant contended that she is the wife of the deceased complainant and she wants to prosecute the case.

7. The **Hon'ble Supreme Court** in a decision reported in **(2004) 12 SCC 509 between Jimmy Jahangir Madan V/s Cariyappa Hindley (dead) by Lr's** and the **Hon'ble Rajasthan High Court** in the decision reported in **2018 (2) RLW 1529 (Raj.)**, between **Amit Kumar Swami V/s Firm Kapoorchand Bhagchand**, it is held that in the summons case, upon the death of the complainant, the court can permit the legal representatives of the deceased complainant to continue with the complaint by taking into consideration section 302 of Cr.P.C.,

8. Herein this case, the complainant by name Sri.Rudresh.K.R was died and the applicant Smt.Vanitha.K.S who is the wife of the deceased complainant wants to continue with the complaint.

Hence, in view of the dictum laid down by the Hon'ble Apex Court as well as the Hon'ble Rajasthan High Court, the present applicant can be permitted to prosecute the complaint after the death of complainant. Hence, this court proceed to following:-

ORDER

The application filed by the deceased wife of the complainant under section 302 of Cr.P.C R/w section 142 of N.i Act, is hereby allowed and she is impleaded as legal representative of the complainant.

Consequently, the legal representative of the deceased complainant is hereby permitted to continue with the complaint.

Further, legal representative of the deceased complainant is hereby directed to amend the cause title of the complaint and to furnish amended complaint.

Sd/-

P.C.J & J.M.F.C; Mudigere.