

**ORDER ON APPLICATION FILED UNDER SECTION
302 OF CR.P.C.**

This is the application filed by one Mr. Harish K.G., claiming to be the Accountant/Authorized person of the complainant firm, seeking permission to prosecute the above case.

2. The applicant has contended that one among the partner of the complainant died on 06.01.2024 which is also reported to this Court and after his death, the complainant partnership firm is reconstituted and such reconstituted firm has authorized the applicant who is its accountant, to continue and prosecute the above case being the legal representative of the complainant firm. On the above averments, the applicant has sought for allowing the present application.

3. Learned counsel for the accused has filed the statement of objections to the present application contending that the authorization given to the applicant is not valid under the law and he has no authority to seek permission of this Court to continue the prosecution of the above case. The present application is filed to drag the proceedings and no grounds are made out to allow the application. On these grounds, the learned counsel for accused prays for rejection of the present application.

4. Heard and perused the materials available on record.

5. No doubt the present case is instituted by the complainant firm through its managing partner Mr.Nobert Saldanha who is reported to be dead on 06.01.2024. The applicant has produced the copy of partnership deed dated 27.07.1994 and reconstitution deeds dated 10.12.1997, 26.10.2018 and 05.02.2024. On careful perusal of these documents, it could be seen that after the death of managing partner Mr.Nobert Saldanha, the partnership firm is reconstituted on 05.02.2024 in which the son of said Mr.Nobert Saldanha is admitted as partner to the firm with the consent of his mother, brothers and sisters. The declaration/authorization letter dated 16.03.2024 would disclose that the partners of the complainant firm as per the reconstitution deed dated 05.02.2024, have authorized the applicant to attend and represent this case on behalf of the complainant firm. This being the case the contention of the accused that the authorization in favour of applicant is not valid, cannot be accepted.

6. The above complaint filed by the complainant is on the assertion that the accused has issued the subject matter cheque in order to re-pay the advance amount received by him on account of supplying Coffee beans to the complainant firm. The applicant has submitted that he is authorized by the complainant firm to prosecute the above suit. The person who had filed the above complaint by representing the complainant firm is dead and now the complainant firm has authorized the applicant to

prosecute the above case. This being the case, if the present application is allowed, no hardship or prejudiced will be caused to the defense as it is open for the accused to post all such questions to the authorized person of the complainant, if he enters into the witness box. In view of the above, this Court considers to allow the present application. Accordingly, the following;

ORDER

Application filed under Section 302 Cr.P.C is hereby allowed.

The applicant who is authorized by the complainant firm, is permitted to prosecute the above case on behalf of the complainant.

Since the PW1 is dead, the above case is posted for further prosecution evidence by 30.09.2024.

**Sd/-
(VISHWANATH.A)
ADDL. CIVIL JUDGE & JMFC.,
MUDIGERE**