

IN THE COURT OF THE CIVIL JUDGE AND ADDL. J.M.F.C AT TARIKERE

C.C.No.1167/2023

COMPLAINANT

vs.

ACCUSED

State by Birur Police

Smt. Shamantakamani and another

Date: 06.03.2025

Proceedings or Orders of the Judicial Officer

**ORDERS ON APPLICATION DATED 28.01.2025
FILED BY THE DE-FACTO COMPLAINANT UNDER
SECTION 301(1) r/w. SECTION 302(2) OF
Cr.P.C.**

- 1.** The instant application has been filed u/s. 301 (1) r/w. Section 302(2) of Cr.P.C with a prayer permit de-facto Complainant to engage a private Advocate to assist the Learned Assistant Public Prosecutor in the present case.
- 2.** In the application, it is contended that the charge sheet has been filed against the accused for offences punishable under Sections 454, 380, 320(b), and 129 of the IPC, as per the information provided by the de facto complainant. The family members of the de facto complainant are the victims of the alleged crime and are well aware of the circumstances surrounding the crime. They are in a position to effectively assist the Learned Assistant Public Prosecutor in properly conducting the present case. Hence, the prayer is to allow the application.
- 3.** Resisting the application, the Learned Assistant Public Prosecutor has filed objections, contending that the trial in the present case is pending, and the instant application seeking permission to engage

counsel to assist the Learned Assistant Public Prosecutor is not permissible under law. The prosecution can competently conduct the case, and hence, the application is liable to be dismissed.

4. Heard both sides.

5. Having heard both sides and on perusal of the materials, the sole point that would arise for my consideration is –

Whether the Complainant has made out sufficient grounds to allow the application filed by him under Section 301(1) r/w. Section 302(2) of Cr.P.C.?

6. My answer to it would be in the **"Affirmative"** for the following reasons –

7. The de facto complainant, who has initiated the criminal proceedings in the present case, has filed the instant application seeking permission to engage a private advocate to assist the Learned Assistant Public Prosecutor in conducting the case.

8. Section 301 of the Cr.P.C. empowers the Court to permit the de facto complainant to engage a private advocate to assist the public prosecutor, subject to the restrictions imposed by the provision itself. Hence, it appears that if the application at hand is allowed, subject to certain conditions, the objections raised by the prosecution can be addressed, thereby causing no prejudice to anyone. With these observations, without pondering much, I answer the sole point which has arisen for my consideration in the **"Affirmative"** and proceed to pass the following –

ORDER

The application filed by De-facto Complainant U/s 301(1) r/w. Section 302(2) of Cr.P.C is hereby allowed subject to the following conditions –

- a.* The case shall be conducted by the Learned APP and the private Advocate engaged by the de-facto complainant shall only act under his directions and would have no right of audience during the proceedings of the case.
- b.* The private Advocate engaged by the de-facto complainant is however given the liberty to submit written notes of arguments at the conclusion of the trial in the case.

For HBC, call on

sd/-
Civil Judge and Addl. JMFC.,
Tarikere