

Accused and advocate are present. PPB Advocate called out. Absent.

Perused the records. Application under Section 302 Cr.P.C. filed on 14.12.2021 by the advocate for the complainant stating that the complainant died on 06.02.2021 leaving behind his LRs and therefore, it was sought to permit the LRs of the complainant to come on record to prosecute the case. The order sheet further discloses that neither the LRs of the complainant or the advocate for the complainant appeared before the Court to proceed with, wherein the accused has been remaining present before the Court on all adjourned dates.

Though the complainant was reported as died on 06.02.2021 itself, the application was filed on 14.12.2021 i.e., after lapse of more than 10 months. Even thereafter, none of the LRs of the deceased complainant appear before the Court expressing the intention to prosecute the case. The presence of the complainant / LRs is necessary to proceed with the case in view of section 256 of Cr.P.C. Herein, no representation is made for the complainant. In the circumstances, the accused is entitled for the acquittal as the case is not prosecuted. Therefore, in view of Section 256 Cr.P.C. the

complaint is dismissed for non-prosecution and the accused is acquitted for the offence punishable under Section 138 of N.I. Act.

Prl. Sr. Civil Judge & CJM
Dharwad.