

Orders on Application Under Section 245 of
Cr.P.C.

This application is filed by the accused Under Section 245 of Cr.P.C to discharge him for the offence punishable under Section 138 of N.I. Act.

2 On the other hand, objection filed by the Complainant.

3. Heard both side. Perused the records.

4. It is submitted by the accused that, the complainant filed this complaint against the accused Ningegowda S/o Channegowda for alleging that, he purchased Ginger and in order to pay the amount issued cheque. The said cheque is dishonored. Hence, this complaint is filed. This court also issued summons to the Ningegowda S/o Channegowda. But the summons instead of serving summons to the Ningegowda S/o Channegowda served to Ningegowda S/o Chandregowda. At that time, the accused did not verify his father's name, he appeared and also

obtained bail. During cross-examination, it is noticed the name of the accused and appeared person is same, but father name is different. Hence, the Ningegowda S/o Chandregowda has no business with this case. Hence, prays to discharge him for the offence punishable under Section 138 of N.I. Act.

5. On the other hand, the complainant filed objection and submits that, the accused filed this application is not maintainable. It is submitted by the complainant that, the person one who appeared before the court is issued cheque to him and the said cheque is dishonored. Hence, he filed this complainant. The person one who appeared before the court himself is person one who has purchased Ginger from him and issued cheque. Further, it is submitted that, the accused and complainant are the neighbor villagers and they known to each other from childhood. While issuing the cheque accused intimated his father name is Channegowda. Hence, the complainant issued notice and as well as filed complaint against Ningegowda S/o Channegowda. But, the accused has not answered to the notice. Further, it is submitted by the complainant that, the accused has not denied issuance of cheque, the name of his father only changed. Hence, prays to dismiss the application.

6. It is the contention of the accused is that, his father name is Chandregowda and complainant filed against Ningegowda S/o Channegowda. Hence, he is not the accused in this case. Hence, prays to discharge him for alleged offence. The complainant has also produced his Aadhar Card and DL which is marked as per Ex.D-1 and Ex.D-2 during cross of complainant. On the other hand, the complainant submits the person one who appeared before the court is issued cheque to him, but father name is changed. While issuing the cheque the accused intimated his father name is Channegowda. Hence, he has mentioned

father name is Channegowda.

7. On perusal of the records it is to be noted, the complainant is also cross-examined by the accused. During cross-examination it is came to know that, accused father name is Chandregowda and not Channegowda. It is to be noted, in this regard several questions were asked to the complainant during cross, but during cross the complainant specifically submits father name is wrongly mentioned. Further, it is to be noted, the complainant has specifically submitted that, the accused only i.e. person one who appeared before the court has issued disputed cheque. Further, it is to be noted, the accused never disputed the issuance of the cheque and it does not belongs to him. Under such circumstances, only on the ground that, father name is wrongly mentioned in complaint, the accused cannot be discharged for the alleged offence. Hence, I am of the opinion that, there is no merits to allow the application. Hence, the court proceed to pass the following:

:ORDER:

**The application filed by the accused under
Section 245 of Cr.P.C. is hereby dismissed.**

Senior Civil Judge &JMFC
Belur

Orders on Amendment Application

This application is filed by the complainant to amend the complaint i.e. amend the father name of the accused.

2. On the other hand, the objection filed by the accused.

3. Heard both side. Perused the material on record.

4. It is submitted by the complainant that, the accused purchased Ginger from him and issued disputed cheque. As disputed cheque is dishonored, he issued notice and filed this complaint. While issuing notice and filing complaint the father name of accused mentioned as Channegowda instead of Chandregowda wrongly. Further, it is submitted by the complainant that, the person one who appeared as accused, issued the disputed cheque to him. As there is a mistake in the name of the accused father, hence, prays to amend the father name of the accused by allowing application.

5. On the other hand, the accused submits the application is not maintainable. The accused has cross-examined the complainant. Hence, at this stage complainant cannot be permitted to amend the complaint. Further, it is submitted that, notice was not at all served to the accused, if notice was served to him he would have answered the said notice. Further, it is submitted that, summons was not served to him, the police through phone insisted to obtain bail. Hence, he appeared and obtained bail and he never verified his father name. Since, complainant filed against Ningegowda S/o Channegowda and he is not son of Channegowda, he has filed application to discharge him for the alleged offence. Thereafter the complainant filed this application for amendment. As complainant has already cross-examined and he is not the person against whom case is filed, hence, prays to dismiss the application.

6. On perusal of the records, it is to be noted, it is true that, first complaint filed against Ningegowda S/o Channegowda, but during cross it is elicited that, accused father name is Chandregowda. It is also true that, the accused filed application under Section 245 of Cr.P.C to discharge him for the alleged offence, as he is not the son of Channegowda and he

is the son of Chandregowda. It is to be noted, PW-1 is also cross-examined in full. During cross nowhere it is denied cheque does not belongs to Ningegowda S/o Chandregowda. Further, it is to be noted, the complainant has specifically stated the person who appeared and obtained bail is a person issued cheque by purchasing Ginger from him. Under such circumstances as the name of the accused father wrongly mentioned, it is just and necessary to permit the complainant to amend the complaint. Hence, I am of the opinion that, there are no reasons to reject the application. Hence, the court proceed to pass the following:

:ORDER:

The Amendment application filed by the complainant is hereby allowed.

Complainant is permitted to amend the father name of Channegowda as Chandregowda in complaint only.

Senior Civil Judge &JMFC
Belur