

**Order on application filed under Section
256 of Cr.P.C.**

Learned counsel for the complainant has filed application seeking substitution of the complainant stating that the complainant has died on 14.01.2022. It is stated that now the wife and children of complainant intend to continue with the proceedings of the case.

The accused has not filed any objection to the application.

This is a complaint lodged alleging the offence punishable under Section 138 of N.I Act. It is stated that the accused has borrowed an amount of Rs.1,50,000/- from the complainant and in discharge of said liability issued a cheque. Said cheque came to be dishonored and despite demand notice the accused has not paid the cheque amount and hence he has committed the offence.

A perusal of death certificate shows that the complainant died on 14.01.2022. A perusal of certificate issued by the Deputy Tahasildar, Ranebennur shows that, the applicants are the legal heirs of complainant. Now they intend to continue with the proceedings of this case.

As per the provisions of Section 302 of Cr.PC, any person may be permitted to conduct prosecution. The applicants being legal heirs of

complainant, have a right to proceed with the case. The applicants ought to have filed application under Section 302 of Cr.P.C., However, it is settled position that mere mentioning wrong provision in the application will not make the party dis-entitled to get the relief to which he is entitled to. Hence, in the interest of justice the application seeking substitution of the complaint is allowed.

The legal heirs of the complainant are permitted to conduct the prosecution.

The complainant shall carry out amendment and file amended complaint.

**Addl.Sr. Civil Judge & JMFC,
Ranebennur.**