

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE AND JMFC., AT
HUNSUR,**

**Presided Over by Bhagyamma
B.com. L.L.B.,**

Dated, this the 13th day of June 2025

CC 2794/2022

Complainant : Ravi

.Vs.

Accused : Chandrashekara

Applicant : 1. Smt. Vijayalakshmi K
W/o Late Ravi,
Aged about 38 years.

2. Shreyas B.R.
S/o Late Ravi,
Aged about 14 years,
Minor represented by his mother
Smt. Vijaylakshmi as court guardian.
Both are R/at
Door No.135/5,
Seetha Traders,
Coffee Works Colony,
Hunsur Town, Hunsur.
Mysuru District.

ORDER ON APPLICATION FILED U/SEC. 256(2) OF Cr.P.C.

The application under consideration is filed by legal heirs of deceased complainant seeking that they may be impleaded in the place of deceased complainant thereby enabling them to continue the proceedings.

2. In support of the application it is contended that the complainant demised on 09-03-2024 leaving his legal heirs. Hence, the applicants who are the legal heirs of the deceased complainant may be permitted to continue to prosecute the proceedings.

3. Heard learned counsel for the applicants.

4. The complaint is filed by invoking the provisions of Negotiable Instruments Act, 1881 and the deceased complainant had filed the PCR after duly complying all the per-requisites as required under law; and hence the cognizance was taken for the offence and accused was summoned. It is at this stage that the death of the complainant is reported and the application under consideration is filed. Where the application is supported by death certificate of deceased complainant, this court has no reason to disbelieve the contentions of the applicants that they are legal heirs of the deceased complainant. The Section 256(2) of Cr.P.C. contemplates the non-appearance or death of the complainant i.e., if the summons have been issued on a complaint, Section 256(2) Cr. P.C. contemplates that the provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant due to his death.

5. Further as regards the *locus standi* of the legal heirs to continue the criminal proceedings, the Hon'ble High Court of Karnataka in *Jimmy Jahangir Madan vs Bolly Cariyappa Hindley By L.Rs* reported in *ILR 2001 KAR 5401, 2002 (1) KarLJ 370* held thus:

After perusal of various provisions of the Code and Section 142 of the N.I. Act, we answer the points referred to us as follows:

(1) *The complaint filed under Section 200 of the Criminal Procedure Code or under Section 142 of the N.I. Act would not ipso facto terminate or abate upon the death of the complainant.*

(2) *In a proceeding initiated under Section 142 of the N.I. Act, on the death of the complainant, his L.Rs, their agents or power of attorney holder could be permitted to prosecute the complaint under Section 302(2) of the Criminal Procedure Code or under Section 142 of the N.I. Act.*

(3) *An agent or a power of attorney holder of payee of cheque or holder in due course may be permitted to prosecute the complaint unless there is a specific bar in the Code for such persons to lodge the complaint. But once the complaint is filed by the aggrieved persons, the prosecution can be continued by the interested persons or persons named above.*

16. *Before parting with this case, we may add that no provision of law should be construed so as to defeat the purpose of the Act on technicalities. It is desirable in a case of this nature for L.Rs of the deceased to come on record and prosecute the complaint in person, if possible. In the event of any disability, they may seek the permission of the Court to prosecute such complaint through their agent or power of attorney. If such applications are made, the Criminal Courts shall consider it on merits and pass appropriate orders as required under Section 302(2) of the Criminal Procedure Code or under Section 142 of the N.I. Act.*

6. In view of the above decision this court finds no hesitation in holding that the application is fit to be allowed and the applicants should be permitted to implead themselves in this case and contest the complaint on merits.

7. For the foregoing reasons, this court proceeds to pass the following:

ORDER

The application under Section 256(2) of Cr.P.C. filed by the applicants is hereby allowed.

Consequently, the applicants are impleaded as Complainant No.1(a) and (b). The Lrs of

*complainants shall carry out amendment and file
amended complaint.*

By 20.6.2025.

**Addl. Sr. Civil Judge &
J.M.F.C., Hunsur.**