



ORDER BELOW EXH 66.

(CNR No. MHLA13000910-2017)

Present application is filed by the accused u/sec. 256 of Cr.PC. for stoppage of proceeding and acquittal of accused on the ground that, complainant was died on 22.01.2023 at Pune. Learned advocate for complainant filed his say on the back leaf of the application and opposed the application on various grounds.

2. Perused application and say thereon. Heard learned advocate for both sides. On perusal of complaint it appears that, accused persons being real brother of complainant mutated their name instead of name of complainant on revenue record and received the amount of govt. schemes from D.C.C. Bank by making false signature pretending himself as a complainant. Hence, my learned predecessor has issued proceed u/sec. 420,464,468 r.w. 34 of I.P.C. Thereafter, evidence before charge of complainant as well as one another witness were recorded. During the pendency of proceeding on 22.01.2023 complainant died. Now, the question arise as to whether this complaint is deserves to be dismissed on the ground of death of complainant or not ?

3. In present case this court has taken the cognizance of offence and issued proceed against the accused for the offences punishable u/sec. 420,464,468 r.w. 34 of I.P.C. Thereafter, evidence before charge of complainant as well as witnesses over and thereafter complainant died on 22.01.2023. It is pertinent to note that if complainant died after taking the cognizance of the offences and issuance process against accused for the offences punishable u/sec. 420,464,468 r.w. 34 of I.P.C., the proceeding do not abate and trial has to be taken to it's logical end following due process and procedure laid down in Cr.PC. Therefore, legal heirs of original complainant entitled to come forward and ask for allowing them to represent the complainant, so as to enable the court to proceed further with the



trial.

4. So also, definition of word victim given under Cr.P.C. cannot be rendered restrictive meaning and legal heirs has locus to continue the case initiated deceased complainant. Legal heirs of deceased complainant can continue the case on the allegations initiated by the deceased particularly in the light of offences for the offences punishable u/sec. 420,464,468 r.w. 34 of I.P.C.

5. Permission could be granted and person other than complainant could be allowed to prosecute the case against accused. So far as the offences punishable u/sec. 420,464,468 r.w. 34 of I.P.C. are concerned, they are serious in nature punishable with imprisonment for 7 years respectively. The person other than complainant could continue the prosecution by filing fresh application u/sec. 302 of Cr.P.C. by the legal heirs of deceased complainant. In present case complainant was died. Therefore, it is very much clear that, on his death present case for the offences punishable u/sec. 420,464,468 r.w. 34 of I.P.C. did not abate. It is open to the Lrs. Of complainant to apply for continuation of proceedings against accused persons. So also, it is necessary to grant opportunity to the legal heirs of deceased complainant to contest the matter. Therefore, in the light of above mentioned discussion and legal position this application deserved to be rejected. Hence, I proceed to pass the following order.

ORDER

1. Application below Exh. 66 is hereby rejected.
2. It is directed to complainant to take appropriate step to proceed with matter.

Date 19/04/2024

(M.S. Luniya)
J.M.F.C., Court No.2, Chakur.



RCC NO.109/2017
Rajeshwar Vs.. Ramu & ors.

C E R T I F I C A T E

I affirm that the contents of this P.D.F file order are same word for word as per original order.

Name of Steno : M.B. Pathan

Court Name : M.S. Luniya, J.M.F.C., Court No. 2
Chakur.

Order Date : 19/04/2024

Order signed by presiding officer on : 03/05/2024

Order uploaded on : 03/05/2024