

**ORDER BELOW EXH.49**

This application is filed by the mother Manisha Rajanikant Pandit of the deceased complainant. It is averred that, her son died on 09.12.2023. Being mother of the deceased complainant she prays to allow her to continue this complaint. Say of the other side was called. From 13.03.2025 though the accused was absent his Ld. Advocate was present till 26.08.2025, but say is not filed to this application. Hence, this application shall proceed without say of the accused.

2. On perusal of application and averments there in it appears that, the original complainant filed present complaint under section 138 of the N.I. Act for dishonor of cheque of Rs.10 Lacs. On 22.02.2022 the accused pleaded not guilty vide Exh.19 and claimed trial. So, the original complainant adduced his oral evidence vide Exh.24 on 11.10.2023 the accused himself had conducted part heard cross-examination of the original complainant and differed for further cross-examination as per order passed on Exh.42. This applicant has produced a copy of death extract of the original complainant vide Exh.46. On perusal of it appears that, on 09.12.2023 the complainant was died. So, in view of Helean C Pinheiro and ors. Vs. Kamaxi Steel products 2000 Cri. LJ 1622 on the death of complainant, the legal heirs can be permitted to prosecute the complaint in the trial court. Section 25(2) of Cr.P.C. was introduced with a purpose that due to the death of complainant the proceedings do not come to an end automatically but discretion in the matter is given to the magistrate which has to be exercised in terms of section 256.

3. Hence, considering the nature of offence it would be lawful to allow this applicant to continue this complaint as the cheque amount of Rs.10 lack is in dispute. If the applicant is not permitted to continue this complaint, the accused will enjoy benefit of the death of the complainant without rebutting onus shifted under section 139 of the N.I. Act upon him. So, this application is allowed and the applicant is permitted to continue this complaint. She shall amend title clause of the complaint within 14 days from today. Thus, following order passed.

=ORDER=

1. This application is allowed.
2. the applicant is permitted to continue this complaint.
3. She shall amend title clause of the complaint within 14 days from today.

Sd/-

(Y. C. Patil)

Date : 20.11.2025.
Chiplun.

Judicial Magistrate, First Class,
Chiplun.

:-Certificate :-

I Affirm That The Contents Of This Order And The P.D.F. File Of This Order Are Same, Word To Word, As Per The Original Order.

Name Of Stenographer	Shri.M.E.Arekar
Name Of Court	Jt. C.J.J.D.& J.M.F.C.,Chiplun
Date Of Decision	20/11/2025
Order Signed By The P.O. On	20/11/2025
Order Uploaded On	20/11/2025