

**IN THE COURT JUDICIAL MAGISTRATE, THENI**

Present: Thiru. P.Aasay Marudhu, B.A., L.L.B.,  
Judicial Magistrate [F.A.C], Theni.

Friday this the 13<sup>th</sup> day of March 2026

**CrIMP. No.5587 of 2023**

**CNR No.TNTH020069492023**

1. Tmt. Devi,  
2.Thiru. Eswaran

...Legal Hires

Chinna Kalai

...Petitioner

Vs

State

Rep by Inspector of Police,  
Land Grab Prevention Unit,  
(Crime No: 18/2016)

U/s.120(b), 419, 465, 468, 471 and 420 IPC

...Complainant

This petition has came up on **13.03.2026** for final hearing before me in the presence of **Thiru.M.Subramaniyan** learned counsel appearing for the petitioner / Legal hires and Learned APP for the respondent and upon hearing both side and upon perusal of the records, this court delivers the following . . . .

**ORDER**

This petitioner's has filed the present petition u/s.302 and 256 of Cr.P.C to permit to conduct the case proceedings which had been instituted by the deceased father namely Chinna Kalai.

**1. BRIEF CONTENT OF THE AVERNMENTS HAVE BEEN IN THE PETITION PRODUCE**

a) The petitioner's father namely Chinna Kalai had preferred ALG produce in Crime No.18/2026 and after complition of the investigations, a ALG produce has filed the RCS Report and notice has been issued to the petitioner's father in RCS No.07/2019 and petitioner's father filed the objection to the RCS report and



the same is pending for enquiry. In the mean while, the petitioner's father has expired on 11.06.2018. The petitioner's father submit that they came to know about the case proceedings through their Advocate only in the year of 2022. Hence the petitioners's had filed the present petition u/s.302 abd 256 Cr.P.C to permit them to conduct the proceedings instituted by the father. The petitioner has also filed death certificate and the legal hier certificate of their father.

On numbering of this petition evenafter the provided with opportunity to filed the reply. They are not filed any objection till date.

## **2. POINTS FOR CONSIDERATION:**

### **WHETHER THIS PETITION LIABLE WILL BE ALLOWED OR NOT**

Heard records. On perusal of records initially the case was instituted by the complaint given by the ChinnaKalai. The father of petitioner after instructed of the complaint. The said ChinnaKalai died on 11.06.2018. It is relevant to extract Sec.256 of Cr.P.C,

1) If the summons has been issued on complaint and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall notwithstanding anything hereinbefore contained, acquit the accused unless for some reason he thinks it proper to adjourn the hearing of the case to some other day;

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance and proceed with the case.

2) The provisions of Sub-Section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death.



On perusal of the above provision, it is clear that if the complainant was died, the proceedings of the case can be conducted through their legal hires. Accordingly the petitioner's are legal hires of the deceased Chinna Kalai is entitled to conduct proceedings instituted by the father.

In the result this petition is allowed. No cost.

*Dictated to Steno typist and typed by  
her and corrected by me and pronounced  
by me on 13<sup>th</sup> day of March 2026.*

Judicial Magistrate(FAC),  
Theni.