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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ CRL.M.C. 2740/2014

DHARMENDER KUMAR @ KALU

..... Petitioner

Through: Mr. Sameer Chandra and
Mr. Sandeep Tyagi, Advocates
(through VC).

versus

THE STATE & ANR

..... Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Pramod Kumar, PS Sagarpur.
Mr. T.C. Sharma, Advocate (through
VC).

12

+ CRL.M.C. 2759/2014

PANKAJ GUPTA & ANR

..... Petitioners

Through: Mr. Sameer Chandra and
Mr. Sandeep Tyagi, Advocates
(through VC).

versus

THE STATE & ANR

..... Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Pramod Kumar, PS Sagarpur.
Mr. T.C. Sharma, Advocate (through
VC).

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

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04.05.2023

**CRL.M.A. 21954/2022 (substitution of legal heirs of respondent no. 2) in
CRL.M.C. 2740/2014 & CRL.M.A. 1658/2023 (substitution of legal heirs
of respondent no. 2) in CRL.M.C. 2759/2014**

1. The present applications under Section 256 read with Section 482 of
the Cr.P.C. seeks the following prayers:-



“In view of above stated facts and circumstances, it is most respectfully prayed that this Hon'ble Court may most graciously be pleased to:

a. allow the present application, thereby, the following legal heirs of the respondent no.2 may kindly be substituted in the present petition in the interest of justice;

i. Braj Wala; W/o Phool Chand;

ii. Vivek S/o Phool Chand;

iii. Abhishek S/o Phool Chand

iv. Chanchal D/o Phool Chand

All are Resident of—

WZ-13,

Vashishta Park,

Pankha Road, New Delhi 110 046

b. the Amended Memo of parties may kindly be taken on record in the interest of justice;

c. Such further order (s), which this Hon'ble Court under facts and circumstances of present case deems just and fit.”

2. Notice was issued *vide* order dated 28.10.2022 in application bearing no. CRL.M.A. 21954/2022 in CRL.M.C. 2740/2014 and in pursuance thereof, the matter was listed before the learned Joint Registrar (Judicial) for completion of pleadings. However, no reply was filed on behalf of respondent no. 2 and proposed respondents/ legal heirs, before the learned Joint Registrar (Judicial).

3. Learned counsel appearing on behalf of respondent no.2 and proposed respondents/legal heirs has filed documents to demonstrate that the factum of the respondent no.2's demise was well-within their knowledge since 2016 as *vide* communication dated 16.10.2016 the counsel for respondent No.2 had informed learned counsel appearing for the petitioner about the demise of respondent no.2 on 23.08.2016 and the details of the legal heirs.

4. Learned counsel appearing for the petitioner denies the receipt of the same.



5. The present application is only for the purpose of impleading the legal heirs which admittedly they are.
6. Learned counsel appearing for the petitioner opposes the present application on the ground that no steps were taken in time despite the knowledge of respondent no.2's demise. The aforesaid situation is disputed by the learned counsel appearing on behalf of respondent.
7. Even if there is a delay in impleading the legal heirs, the same cannot be the ground to reject the present prayer and the same is the procedural issue.
8. In view of the averments made in the application, the present application is allowed.
9. The amended memo of parties along with the application is taken on record.
10. Let response, if any, be filed on behalf of respondents/legal heirs before the next date of hearing, with an advance copy to learned counsel appearing on behalf of the petitioner.
11. List on 16.08.2023.

AMIT SHARMA, J

MAY 04, 2023/AT