



CrI.RC.No.330 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 13.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.RC.No.330 of 2025
and CrI.MP No.3159 of 2025

Mr.Sanjay Malick Babu,
Prop.M/s.Super Service,
No.1529, Anna Salai,
Teynampet, Chennai – 600 018.

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Petitioner

Vs.

Mr.Mukesh K.Jain
S/o. Khemchand
rep. by M.Nayan M.Jain,
S/o. Mukesh K.Jain
as Power Agent
No.2-2A, NMZ Complex, Demellows Road,
Chollai Sri Ashapuri Market,
ING MDS (P) Ltd NR-Nataraj Theatre,
Chennai – 600 013.

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Respondent

Prayer: Criminal Revision is filed under Section 438 r/w. 442 of BNSS, to set aside the order dated 31.12.2024 passed by the learned III Metropolitan Magistrate, George Town, Chennai, in CrI.M.P.No.14592 of 2024 in C.C.No.949 of 2020 permitting the respondent / complainant to implead himself as a legal heir to continue the trial proceedings against the accused.



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Crl.RC.No.330 of 2025

For Petitioner : Mr.D.Mao Marx

For Respondent : Notice Served – No appearance

ORDER

This revision has been preferred as against the order dated 31.12.2024 passed by the learned III Metropolitan Magistrate, George Town, Chennai, in Crl.M.P.No.14592 of 2024 in C.C.No.949 of 2020 thereby allowing the petition filed to substitute the respondents in the place of the complainant.

2. The respondent filed a complaint for the offences under Section 138 of NI Act as against the petitioner in the year 2020 and the same has been taken cognizance by the trial Court. The complainant is represented by his Power Agent who is none other than his son. While pending trial the complainant died on 08.09.2022. Thereafter, the Power Agent proceeded with the case and he was examined as P.W.1 on 10.06.2024. On the same day there was no cross-examination and as such the complainant side evidence was closed and the matter was posted for questioning under Section 313 Cr.P.C. At this juncture, the petitioner filed an application to recall P.W.1 for cross-examination. In the cross-examination, the petitioner elucidated that the complainant died on 08.09.2022. Thereafter, the respondent filed an application to substitute him as complainant and it was allowed. Aggrieved by



the same the petitioner has filed the present revision petition.

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3. The learned counsel for the petitioner would submit that the even after knowing the fact that his father died on 08.09.2022, the respondent conducted trial without any locus and he was also examined as P.W.1. That apart, the respondent failed to substitute him as complainant for nearly 2 years after the death of his father. However, the trial Court mechanically allowed the petition without considering the above facts and circumstances.

4. On a perusal of the records it reveals that the respondent was examined as P.W.1 after the demise of his father. Thereafter, he filed an application to substitute himself as complainant and the same was allowed. When the complainant died the legal heir of the complainant can be substituted in the place of the complainant. Therefore, the trial Court rightly allowed the petition and this Court finds no infirmity or illegality in the order passed by the trial Court. However, the evidence of P.W.1 cannot be taken into account and it must be eschewed. Accordingly, the same is eschewed and the respondent is at liberty to let in fresh evidence.

5. Accordingly, this Criminal Revision is disposed of. The trial Court is



Crl.RC.No.330 of 2025

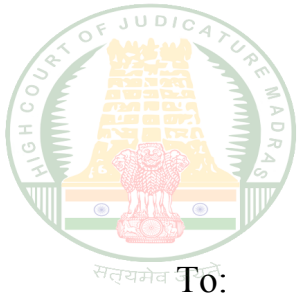
directed complete the trial and dispose the case as expeditiously as possible.

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Connected miscellaneous petition is closed.

13.08.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.RC.No.330 of 2025

To:

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1.The III Metropolitan Magistrate, George Town, Chennai.



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CrI.RC.No.330 of 2025

G.K.ILANTHIRAIYAN, J.

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CrI.RC.No.330 of 2025

13.08.2025