

Present: Complainant with counsel Sh. KA Kapil, Advocate.

Application for Amendment of Complaint

The counsel of the complainant has moved an application for amendment of the complaint stating that the cheque number and the date of the cheque has been wrongly mentioned in the complaint. The perusal of the file reveals that the cheque number and date of cheque appended on the file do not match with the contents of complaint. The liability of the accused arose from the cheque number 181845 dated 03.03.2021 as same was dishonoured because the account is closed and subsequently the accused has failed to owner the amount of cheque within the stipulated period of Negotiable Instrument Act.

Though, the Code of Criminal Procedure has been drafted as comprehensively as possible yet none of the provisions of the Code covers the aspect of amendment of the complaint. In the case titled as UP Pollution Control Board Vs. Modi Distilleries (1987) 3 SCC 684 the Hon'ble Supreme Court has observed that an easily curable legal infirmity in the complaint can be permitted to be cured by means of a formal application of amendment. In SR Sukumar Vs. S. Sunaad Raghuram (2015) 9 SCC 609, the Hon'ble Supreme Court also observed that if the amendment is sought to be made relates to simple infirmity, which is curable by means of formal amendment then by allowing such amendment no prejudice should be caused to the accused, notwithstanding the facts that there is no enabling provisions in the Cr.P.C. for entertaining such amendment. In such cases, the Court may permit such an amendment to be cured.

The mistake point out by the counsel of conmpainant in the complaint is result of oversight and typographical error. As discussed above, the complaint can be amended to cure simple infirmity(s) by way of filing application for amendment and by way of such amendment no prejudice would be caused to the accused even though there is no enabling provision in the Cr.P.C to entertain in the application for amendment. From the persual of facts of the present application this court is of the view that no prejudice will be caused to the accused if the cheque number alongwith date is amended by way of the present application as the

mistake is simple infirmity. The amendment is necessary for just decesion of the case. Moreover, the cheque appended in the complaint bears the same number and date as desired to be amended. Accordingly, in view of above, present application is allowed. Amended complaint is appended alongwith present application is taken on record. Application stands disposed of. Notice to the ccused be issue for 07.10.2023.

Pronounced in open Court:
20.09.2023
yogita (Steno-III)

Anupam Gupta, PCS
JMIC, Barnala
(UID No. PB0591)