

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Misc.No.M-27126 of 2015

Date of Decision: August 17, 2015

Harbans Singh Gill and Anr.

...Petitioners

Versus

M/s Mohindra and Mohindra Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.B.P.S.Virk, Advocate,
for the petitioners.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition, filed under Section 482, Cr.P.C., is for quashing of the order dated 03.08.2015 (Annexure P-5) passed by learned Judicial Magistrate Ist Class, Mohali, whereby the application (Annexure P-3) presented by the complainant for rectification of the name of the witness during cross-examination, was allowed.

Learned counsel has raised the following contentions:-

- (i) the order (Annexure P-5) is without jurisdiction ;
- (ii) no provision was mentioned in the application for rectification of the name of the witness; and
- (iii) the rectification in the name of the witness would not tantamount to rectification of the clerical mistake.

I have heard learned counsel for the petitioners and

with his able assistance gone through the material available on record.

A complaint under Section 138 of the Negotiable Instruments Act (for brevity "N.I. Act") was presented before learned Judicial Magistrate Ist Class, Mohali. After recording the evidence of both the sides, learned trial court held the petitioner guilty under Section 138 of N. I. Act and awarded the sentence. Dissatisfied with the judgment of conviction and order of sentence, the petitioner filed the appeal before the Court of Session which was heard and decided by learned Additional Sessions Judge, Mohali, vide order dated 13.01.2015 and the matter was remitted to learned trial court for proceeding afresh from the stage of the recording of the statement of the petitioner/accused under Section 313, Cr.P.C.. During the proceedings, an application (Annexure P-3) was presented by the respondent/complainant for rectification of the name of Pardeep Kumar as Amit Raghav in the cross-examination of the said witness. That application was allowed vide order Annexure P-5 holding that due to inadvertence, the name of Pardeep Kumar was mentioned instead of Amit Kumar Raghav during the cross-examination.

The argument of learned counsel for the petitioners that the impugned order (Annexure P-5) is without jurisdiction does not appear to be correct. During course of trial, learned trial court was well within its jurisdiction to rectify the clerical mistake which appeared on the documents before it.

Second limb of argument that the provision under

which the application (Annexure P-3) was presented is not mentioned in the application and as such, the said application should have been dismissed on that score, is also without any substance since learned trial Court was within its jurisdiction to rectify the clerical mistake on record if it is brought to its notice.

There is no force in the present petition and the same is hereby dismissed.

August 17, 2015
seema

(Naresh Kumar Sanghi)
Judge