

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-4588 of 2014 (O&M)
Date of decision: March 15, 2016.

M/s Priknit Retails Limited and others

... **Petitioners**

v.

M/s Preview Fashion and another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Gautam Dutt, Advocate for the petitioners.

None for the respondents.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral):

Despite the fact that on the last date of hearing it was made clear that no further adjournment shall be granted, learned counsel for respondent No.1 has not put in appearance and an adjournment slip has been circulated seeking adjournment and none is present on behalf of the respondent. Therefore, I proceed to decide the matter on merits.

Impugned in the present petition is the order dated 30.10.2013 passed by learned Additional Sessions Judge, Ludhiana vide which the order dated 8.11.2012 passed by the court of learned Judicial Magistrate First Class, Ludhiana was reversed and the complainant was allowed to amend the title of the complaint so as to mention the word 'partner' in place of 'proprietor'.

The short facts of the case are that M/s Preview Fashion had filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 against the present petitioners mentioning that it is suing through proprietor Shri Krishan Murari Aggarwal. Later on, an application was filed

that in fact 'proprietor' was wrongly typed and it was to be mentioned as 'partner'. The learned Magistrate dismissed the said application and the said order has been reversed in appeal.

I have heard learned counsel for the petitioners and considered the case of the respondents.

The plea of the petitioners is that the notice before filing the complaint was given by the firm as proprietary firm and that changing it to partnership firm will amount to substitution of the party. I am of the view that the complaint was filed by the firm through its proprietor; the name of the firm and proprietor is not sought to be changed and the word 'proprietor' is sought to be changed to 'partner'. Whatever is the effect of the said change, is to be seen at the time of final disposal of the case. From its face, it cannot be said that the impugned order is contrary to law.

Therefore, the present petition is dismissed with the observation that the effect of the said amendment and the earlier notice of the complainant shall be seen and considered by the trial court at the time of final disposal of the complaint.

March 15, 2016.
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[Kuldip Singh]
Judge