

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-24018-2014

Date of decision: 04.10.2018

Iqbal Singh and another

..... Petitioners

Versus

ICICI Bank Ltd.

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. KS Dhillon, Advocate for the petitioners.

Mr. Sandeep Suri, Advocate for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for setting aside order dated 20.05.2014 (Annexure P-4) of the Judicial Magistrate Ist Class, Jalandhar.

Learned counsel for the petitioners referring to judgments in *(i) Adalat Parsad Vs. Rooplal Jindal, 2004 (7) SCC 338; (ii) V.K. Gupta Vs. Manjit Kaur, 2008 (3) RCR (Criminal) 430; (iii) Jai Mata Traders Vs. Unique Foundary Regd., 2011(4) RCR (Criminal) 687; (iv) M/s Kumar Rubber Industries, Kapurthala Vs. Sohan Lal, 2002(2) RCR (Criminal) 111 and (v) K. Velmurugan Vs. N. Ganesan, 2011(4) RCR (Criminal) 695*, contends that there is no provision in the entire Criminal Procedure Code (for short-'the Code'), to allow the complainant-Bank to amend its complaint. Therefore, the impugned order Annexure P-4, permitting the respondent to amend its complaint is erroneous.

On the other hand, learned counsel for respondent-Bank

referring to judgment of the Apex Court in **S.R. Sukumar Vs. S. Sunaad Raghuram, (2015-5) 181 P.L.R. 230 (S.C.)**, contends that a complainant can be permitted to amend his complaint to remove curable infirmities, even if, there is no specific provision in the Code.

Having given thoughtful consideration to the rival submissions of both the sides, this Court does not find any infirmity or illegality in the impugned order dated 20.05.2014 (Annexure P-4), taking the aid of **S.R. Sukumar's case (supra)**, wherein it has been held that complainant can be permitted to amend his complaint to remove curable infirmities. For ready reference, relevant para No. 18 of the aforesaid judgment is reproduced as under:-

“18. What is discernible from the *U.P. Pollution Control Board Vs. Modi Distillery and others, (1987) 3 SCC 684*, is that easily curable legal infirmity could be cured by means of a formal application for amendment. If the amendment sought to be made relates to a simple infirmity which is curable by means of a formal amendment and by allowing such amendment, no prejudice could be caused to the other side, notwithstanding the fact that there is no enabling provision in the Code for entertaining such amendment, the Court may permit such an amendment to be made. On the contrary, if the amendment sought to be made in the complaint does not relate either to curable infirmity or the same cannot be corrected by a formal amendment or if there is likelihood of prejudice to the other side,

then the Court shall not allow such amendment in the complaint.”

The facts and circumstances of the judgments relied upon by the petitioner are entirely distinguishable from the present case, therefore, no assistance can be drawn from them.

In view of the above, instant petition stands dismissed.

October 04, 2018
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No