

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

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CRM-M-2731 of 2019

Date of decision: 22.01.2019

Sarabjeet Kaur

...Petitioner

Vs.

Patiala Central Cooperative Bank Ltd.

...Respondent

CORAM:HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

RAMENDRA JAIN, J.(ORAL)

Through this petition under Section 482 Cr.P.C., petitioner has sought quashing/setting aside of order dated 03.12.2018 passed by Ld. Judicial Magistrate, Ist Class, Patiala, (Annexure P-6) in complaint No. 1373 of 2017 titled as "Patiala Central Cooperative Bank Ltd. Vs. Sarabjeet Kaur" filed on 11.04.2017.

In brief, respondent-bank filed a complaint against the petitioner under Section 138 Negotiable Instruments Act, 1887 (in short 'the Act') read with Section 420 IPC before the Judicial Magistrate, Ist Class, Patiala.

During trial, respondent-complainant/bank moved application for correction of figure of the loan amount from ₹ 5 lacs to ₹12 lacs alleging that the same has occurred on account of typographical mistake.

The trial Court, after hearing both the sides,

allowed the said application vide impugned order dated 30.01.2019 (Annexure P-6).

Learned counsel for the petitioner, in support of his contention relying upon judgments rendered in V.K. Gupta Vs. Manjit Kaur 2008(3) RCR (Criminal) 430; 'M/s Neeraj Cement Structural Pvt. Ltd. & Anr. Vs. Bomaby J.C.B. Earth Movers & Anr.', 2011 ACD 1165; 'Madan Tulshiram Hembade Vs. Ashok Sonaji Hembade and another', 2014(1) Bom.C.R.(Crl.) 697 ; 'Vinayagam and Others Vs. Subhash Chandran and etc. 2000(3) RCR (Criminal) 4 ' and 'M/s Kumar Rubber Industries, Kapurthala Vs. Sohan Lal' 2002(1) CLJ (Criminal) 53 inter alia contends that the trial Court was not empowered to allow the application of the respondent-complainant on the ground of alleged typographical mistakes. The impugned order is liable to be quashed.

Having given thoughtful consideration to the submissions of the learned counsel for the petitioner, this Court finds the present petition being devoid of any merit and is liable to be dismissed for the reasons to follow.

(i) Typographical mistake sought to be corrected which has been permitted by lower Court is only qua the figure of advancement of loan to the petitioner, whereby respondent-complainant/bank sought to clarify that the petitioner was advanced loan of ₹12 lacs instead of ₹ 5 lacs. The above correction relates to narration of sequence of events. It does not go to the root of the

case, inasmuch as the amount of cheque issued by the petitioner in favour of the bank, its date of presentation and dishonouring are correct. Therefore, when the other particulars in the complaint under Section 138 of the Act are very much correct, in that eventuality, the correction permitted qua the figure of advancement of loan has rightly been permitted.

(ii) Learned counsel for the petitioner has miserably failed to show as to what prejudice is being caused to petitioner in case, trial Court has permitted the respondent complainant/bank to bring true facts on record.

(iii) Filing of this petition under Section 482 Cr.P.C., by the petitioner for quashing impugned order (Annexure P-6) is the outcome of dishonest intention of the petitioner, inasmuch as she wants to avoid or delay payments of loan amount by taking frivolous pleas. It is not understandable as to why the petitioner does not want to bring true facts on record by way of correction sought by the respondent complainant/bank and allowed by the trial Court.

(iv) Procedure in judicial proceedings is hand made, if otherwise, specifically provided. The same can be exercised, if the need be, to impart effective justice.

In V.K. Gupta's case (supra), a coordinate Bench of this

Court has held that the Magistrate has no power to return the

complaint for removing the defects, whereas there is no such circumstance in the present case. The trial Court has merely permitted the respondent complainant/bank to correct its typographical mistake. Even otherwise, in this authority, it has been held that High Court can exercise inherent power under Section 482 Cr.P.C., to correct any such mistakes in the complaint filed under Section 138 of the Negotiable Instruments Act. Consequently, the impugned order is perfectly legal.

In M/s Neeraj Cement Structurals and Madan Tulshiram Hembade cases (supra) the amendment sought by the complainant was allowed at the end of trial. In these circumstances, Hon'ble Bombay High Court held that amendment at that stage was not permissible whereas, there are no such circumstances in the present case.

In Vinayagam's case (supra) the trial Court had returned the complaint to the complainant to remove certain defects. In the given circumstances, the Hon'ble Madras High Court held that Magistrate had no power to return the complaint, whereas there are no such circumstances in the instant case.

In M/s Kumar Rubber Industries's case (supra) a coordinate Bench of this Court held that complaint was liable to be quashed for not mentioning correct number of cheques. However, in paras 48/49 of this judgment, a reference has been made to judgment of Supreme Court cited as U.P. Pollution Control Board Vs. M/s. Modi Distillery AIR 1988 SC 1128

whereby, mistake regarding array of parties was permitted to

be corrected in a complaint under Section 138 of the Act. The mentioning of wrong figure of the cheque amount, its date & number, amounts to typographical mistake. Such amendments are necessary to be permitted to be corrected in ordinary circumstances.

In view of the foregoing reasons, the petition is dismissed.

January 22, 2019
Poonam Sharma

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No