

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25163-2015

DATE OF DECISION:-14.03.2019

M/S OM PARKASH SAT PAL
COMMISSION AGENT

...PETITIONER...

V.

NIDHAN SINGH

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Rajinder Goyal, Advocate
for the petitioner.

Mr. JP Dhull, Advocate,
for the respondent.

RAMENDRA JAIN, J. (ORAL)

Reply on behalf of the respondent has been filed in Court today.

The same is taken on record. Be tagged at appropriate place. A copy thereof has been supplied to learned counsel for the petitioner.

Through this petition under Section 482 Cr.P.C., complainant-petitioner has sought setting aside trial court's order dated 20.07.2015 (P-8), whereby, his application dated 10.07.2015 (P-6) for amendment of complaint case No.125 dated 05.08.2013, under Section 138 of the Negotiable Instruments Act, 1881 (for short, "Act"), was dismissed.

Briefly, complainant-petitioner filed complaint against the respondent under Section 138 of the Act, on the allegations that on his

request, he had advanced loan to him for ₹6,80,000/- through cheque

bearing No.018674 of Central Bank of India, Kaithal, on interest @ 18% per annum as prevailing rate of interest in the market. In lieu thereof, respondent had issued a cheque bearing No.048524 dated 24.06.2003 for ₹8,81,400/- from his account No.3070327580 of Central Bank of India, Kaithal. However, due to typographical error, the date of aforesaid cheque was wrongly mentioned as 24.06.2003, instead of 24.06.2013 in the complaint and in the legal notice also. Consequently, the said mistake occurred throughout till the end of the trial. On noticing the said mistake, petitioner-complainant moved an application for correction/modification of the same, vide application dated 10.07.2015 (P-6), which after hearing both the sides was dismissed by the trial court vide order dated 20.07.2015 (P-8).

Learned counsel for the petitioner relying upon the judgment of Madhya Pradesh High Court titled as "***Pandit Gorelal and another vs. Rahul Punjabi***", 2010(3) CivCC461, contends that there was only typographical mistake qua date of cheque in the complaint, which ought to have been corrected by the trial court by allowing the application.

On the other hand, learned counsel for the respondent refuting the above submissions and pleading the legality and validity of the impugned order, contends that the alleged typographical error could not have been permitted to be rectified/corrected at the end of the trial, more particularly, when in cross-examination, petitioner bent upon telling the date of the cheque as 24.06.2003, instead of 24.06.2013.

Having given thoughtful consideration to the rival submissions,

this Court finds instant petition merits acceptance for the reason to follow:-

A clerical/typographical mistake should always be permitted to be rectified/corrected, irrespective of stage of the trial to impart real justice to a litigant ignoring, all intricacies of law.

In the instant case, loan advanced by the petitioner was through cheque and not in cash. Pursuant thereto, respondent had also issued a cheque in favour of the petitioner to satisfy the loan amount along with agreed rate of interest. Therefore, it is apparent that entire case is based on documentary evidence. Resultantly, no prejudice is going to be caused, in case, the petitioner is permitted to rectify a clerical/typographical mistake in the complaint qua date of cheque issued by the respondent.

In view of the above, petition is accepted and impugned order dated 20.07.2015 is set aside.

Parties are directed to appear before the trial court on 27.03.2019 with the direction to the trial court to take on record amended complaint of the petitioner and proceed further in accordance with law.

14.03.2019
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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No