

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: January 10, 2019

+ CRL.M.C. 5345/2017 & CRL.M.A. 20912/2017

POOJA PRESS & PRAKASHAN PVT LTD. Petitioner

Through: Mr. T.P.S.Kang, Advocate

Versus

SPECTRUM MAGAZINE LTD & ORS. Respondents

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

(ORAL)

Impugned order of 30th August, 2017 rejects petitioner's application for providing correct name and address of respondent while observing that second respondent has been described as "*Amit Metre*" in the Memo of Parties and so, name of respondent cannot be changed to '*Anil Metre*', as the whole controversy is regarding name of respondent No.2 and thus, notice has been issued by the Revisional Court vide impugned order to "*Amit Metre*" and not '*Anil Metre*'.

Notice of this petition to opposite side is dispensed with, as notice has not been issued by the Revisional Court to the respondents.

Petitioner's counsel submits that the Revisional Court has noticed that although in the complaint under Section 138 of Negotiable Instruments Act, 1881, the accused has been described as '*Amit Metre*' but before the trial court, "*Anil Metre*" had appeared and had furnished the bail bond and so, typographical error in the name of respondent-

accused cannot be a ground to issue notice to a non-existent person i.e. “*Amit Metre*”. Attention of this Court is drawn to Annexure P-6 (*colly*) which reveals that bail bonds were furnished by ‘*Anil Metre*’ before the trial court. Attention of this Court is also drawn to a decision of Bombay High Court of 3rd October, 2012 in *Amol Shripal Sheth Vs. M/s Hari Om Trading Co. & Ors.* (Annexure P-9) to submit that complainant was not in a position to give correct name of accused and so, complainant was permitted to amend the complaint.

Upon hearing and on perusal of material on record and decision cited, I find that the complainant may not be in a position to give the correct name of accused. In the instant case, ‘*Anil Metre*’ had infact appeared before the trial court and was granted bail and in such a situation, request to not issue notice to “*Amit Metre*’ cannot be justified. In view of decision in *Amol Shripal Sheth (Supra)*, the Revisional Court after hearing the parties is required to consider as to whether amendment of complaint is to be allowed or not. In the peculiar facts of this case, impugned order is set aside and petitioner’s prayer is allowed to the extent that notice be now issued by the Revisional Court to ‘*Anil Metre*’ on the address given in the application or at any other address so furnished by petitioner, if an occasion arises.

With aforesaid directions, this petition is disposed of.

Records be remitted back forthwith.

(SUNIL GAUR)
JUDGE

JANUARY 10, 2019

r