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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33895-2019 (O&M)
Date of Decision:22.03.2022

Ajay Khutela

.. Petitioner

Vs.

M/s Piyush Infrastructure Pvt. Ltd. and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Aditya Jain, Advocate for the respondents.

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Manoj Bajaj, J. (Oral)

Petitioner has filed this petition u/s 482 Cr.P.C. to challenge the order dated 04.07.2019 (Annexure P-1) passed by JMIC, Faridabad, whereby complainant's application for amendment of complaint bearing No.NACT-4820/16, titled as Ajay Khutela, Vs. M/s Piyush Infrastructure Pvt. Ltd. and another under Sections 138, 141 and 142 Negotiable Instruments Act, 1881 (Annexure P-2) for substitution of name of accused company was dismissed.

Learned counsel for the petitioner has argued that the complainant had wrongly impleaded M/s Piyush Infrastructure Pvt. Ltd. as accused company represented by its director Puneet Goyal, as the cheque in question was in fact issued by M/s Piyush Colonisers Ltd. and in order to correct the typographical mistake, the application for amendment of complaint moved before the Court to implead M/s Piyush Colonisers Ltd., was wrongly dismissed by the trial Court. He has argued that the cheque in question is already on record, which shows that it is in fact issued by M/s

Piyush Colonisers Ltd. and the mistake is bonafide and unintentional, therefore, the impugned order deserves to be set aside and the application for amendment of complaint be allowed.

Mr. Aditya Jain, learned counsel appears on behalf of respondent No.1 company and states that the director, namely, Puneet Goyal (respondent No.2) has passed away during the pendency of this petition. He submits that the respondent-company has been wrongly impleaded, as the cheque in question does not belong to the account maintained by respondent No.1 (accused company) and the company which had issued the cheque in favour of the complainant has not been impleaded as a party in the present petition. He submits that the trial Court has carefully considered the facts and circumstances of the case and has rightly declined the prayer of the petitioner for amendment of the complaint. He prays for dismissal of the petition.

During the course of hearing, it is not disputed by learned counsel for the petitioner that after dishonour of cheque in question, the demand was raised by issuing the statutory notice to respondent No.1-M/s Piyush Infrastructure Pvt. Ltd. and its directors only, and no notice of demand was issued to the company M/s Piyush Colonisers Ltd., now sought to be impleaded.

After hearing the learned counsel for the parties and considering the above background, this Court finds that in case, the amendment is allowed, it would set up a new case altogether against the company sought to be impleaded as an accused against whom no cause of action is available with the petitioner-complainant as concededly no notice of demand was issued to M/s Piyush colonisers Ltd. The amendment of the

complaint would be a futile exercise, as for lack of cause of action in favour of the complainant, the amended complaint would not be maintainable. Further, perusal of the impugned order reveals that the trial Court has considered the merits of the case carefully and rightly proceeded to decline the prayer made by the complainant.

Thus, the impugned order does not suffer from any illegality, therefore, no case is made out for exercise of inherent powers under Section 482 Cr.P.C.

Dismissed.

22.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No