



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 776 OF 2023

(Prakash s/o Motilal Khandelwal Vs. Durgaprasad s/o Shankar Patle, Proprietor of Sai Amrut Milk Product)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri C.A. Babrekar, Counsel for the petitioner.

.....

CORAM : ANIL L. PANSARE, J.
DECEMBER 6, 2023.

By the present petition, the petitioner has questioned the order dated 19/4/2023 passed by the Additional Chief Judicial Magistrate, Nagpur in S.C.C. No. 18319/2021 thereby rejecting the application filed by the petitioner seeking amendment in the complaint filed under Section 138 of the Negotiable Instruments Act, 1881.

2] It appears that the complaint has been filed by and in the name of Shri Prakash M. Khandelwal. The amendment sought is that Shri Prakash Khandelwal is a proprietor of M/s. Gulabchand Badrinarayan. The Trial Court noted that the complainant has nowhere stated that he is the proprietor of M/s. Gulabchand Badrinarayan and accordingly held that the amendment, if allowed, would change the nature of the complaint.

3] The learned Counsel for the petitioner submits that in the notice, Shri Prakash Khandelwal has stated that the cheque was deposited in his account. He

has invited my attention to the cheque deposit slip which bears cheque number and amount of the cheque under question, however the name of account holder is written as Gulabchand Badrinarayan. According to the learned Counsel for the petitioner, this 'Gulabchand Badrinarayan' is nothing but a proprietary concern.

4] This submission appears to be a perception of the learned Counsel for the petitioner inasmuch as, firstly the name on the pay slip does not state 'M/s. Gulabchand Badrinarayan' but only refers to the name 'Gulabchand Badrinarayan'. Secondly, neither the pay slip nor the notice or the complaint under question remotely suggest that Prakash Khandelwal is a proprietor of M/s. Gulabchand Badrinarayan or Gulabchand Badrinarayan. In the circumstances, the findings rendered by the Court below that the amendment, if allowed, would change the nature of complaint appears to be correct. Therefore, no interference is called for in the impugned order.

5] The petition is accordingly dismissed.

(ANIL L. PANSARE, J.)

Sumit