

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1661 OF 2025**

Shankar Parshuram Choudhari
Age-41 years, Occupation- Business,
residing at Gadmudshingi, Taluka:
Karveer, District: Kolhapur – 416 119 ...Petitioner

Versus

1. Vijay Sanjay Lohar
Age-36 years, Occupation-Labour
Residing at northern side of Ganpati
Mandir, Birdev Nagar, Rendal,
Taluka-Hatkanangale
District- Kolhapur-416 203

2. The State of Maharashtra ...Respondents

Mr. Manthan S. Bhandigare i/b Mr. Ajit Savagave for the
petitioner

Mr. S. S. Chaudhari APP for the State

Ms. Faiza Gawandi a/w Mr. Gaurav Shenoy, Mr. Parvez Sanadi
and Mr. Shahbaz Dhalait for respondent no. 1

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th SEPTEMBER 2025

ORAL JUDGMENT:

1. By this petition, Petitioner challenges the order passed below Exhibit 17 by learned Judicial Magistrate First Class, (Court No. 2), Kolhapur (for short 'JMFC') in Summary Criminal Case No. 5535 of 2022 whereby the learned JMFC has refused

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amendment/correction in number of cheque mentioned in complaint.

2. It is the contention of learned counsel for petitioner that respondent has issued cheque to the petitioner, it was dishonoured. Notice was issued to the respondent, but he did not reply to the said notice. Thereafter, a complaint was filed against the respondent under section 138 of the Negotiable Instruments Act, 1881 (For short, 'NI Act'). In the said complaint, matter is posted for cross-examination of the petitioner. At that time, petitioner came to know that cheque number mentioned in the complaint is wrong i.e. last digit of the cheque number is incorrect. Hence, the petitioner had filed an application for amendment before the learned JMFC to correct the last digit of cheque number. Learned JMFC has rejected the said application on the ground that the matter is posted for cross-examination of the petitioner. Hence, such types of amendments cannot be permitted.

3. Learned counsel further submitted that though notice was issued to the respondent about dishonour of the cheque, he did not reply to it. The respondent is not disputing the issuance of

the cheque. Due to typographical mistake, last digit of the cheque number is mentioned wrongly in the complaint. The plea of the respondent is recorded by the learned JMFC. In the said plea, correct cheque number is mentioned. So, by correcting last digit of cheque number, no prejudice is going to be caused to the respondent, but this fact is not considered by the learned JMFC. Hence, requested to allow the petition.

4. Learned counsel for the respondent vehemently opposed the petition and submitted that the petitioner was aware about the correct cheque number, but neither was it properly mentioned in the notice issued to the respondent nor in the complaint. The petitioner had the opportunity/chance to correct it earlier, but the mistake is not corrected till cross-examination of the petitioner. At a belated stage, said correction cannot be permitted. The learned Trial Court has passed a well reasoned order and no interference is required in it and requested to dismiss the petition. Learned counsel for the respondent relies upon *Tantulal Ahirwar Vs. Krishna Agro Sales*¹, *Kaveri Plastics Vs. Mahdoom Bawa Bahrudeen Noorul*²,

¹ MANU/MP/1117/2014

² 2025 SCC OnLine SC 2019

Lekhraj Singh Kushwah Vs. Brahmanand Tiwari³ and Munish Kumar Gupta Vs. Mittal Trading Company⁴ .

5. I have heard both learned counsel, perused the impugned order. Admittedly, the last digit of the cheque number is wrongly typed in the notice as well as in the complaint. The petitioner seeks to rectify the same. Though notice was received by the respondent, but he did not reply to it. It is pertinent to note that plea of the respondent has been duly recorded and the said plea bears the correct cheque number. The typographical error of cheque number is a curable defect and can be corrected before cross examination of the complainant. The original cheque has been produced before the learned Trial Court. I have gone through the case laws cited by the learned counsel for the respondent. The facts of cited case are distinguishable from the present case hence, not applicable.

6. In view of above, I pass the following order:

ORDER

I. The Writ Petition is allowed.

³ 2013 SCC OnLine MP 10902

⁴ 2024 SCC OnLine SC 1732

II. The order dated 25th November 2024 passed below Exhibit 17 by learned Judicial Magistrate First Class, (Court No. 2), Kolhapur (for short 'JMFC') in Summary Criminal Case No. 5535 of 2022 is quashed and set aside.

III. The petitioner is permitted to carry out amendment within 14 days from the date of uploading of this order.

7. The Writ Petition is disposed off in above terms.

[SHIVKUMAR DIGE, J.]