



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.13 OF 2025

M/s Ravi Maya Property Pvt.Ltd. Through Director, Rishi Ravindra Lashkare .Vs.
Vishal Rajeshkumar Agrawal

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Parth Sagdeo, Advocate for petitioner.

Mr. Atul Pande, Advocate for respondent.

CORAM : ANIL S. KILOR, J.

DATED : 13/03/2025

1. Heard.

2. In the present matter, the challenge is raised to the order below Exh.41 dated 05.11.2024, passed by the 17th Jt. C.J.J.D. and J.M.F.C., Nagpur, rejecting the application moved by the petitioner, who is the complainant in S.C.C. No.17097 of 2021, under Section 311 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C."), seeking permission to re-examine the complainant.

3. The said application was made in view of the cross-examination of the complainant. In the cross-examination, the complainant stated that, in the cheques which were replaced by the original cheques given earlier, there was a typographical mistake in the date i.e. 31.12.2021 instead of 31.12.2020.

4. To put the record straight, the application was moved for permission to recall the complainant so that the evidence could be brought on record that the cheques were dated 31.12.2020 and not 31.12.2021.

5. The application came to be rejected on various grounds namely there are no pleadings made in this regard either in the complaint or no oral evidence lead as this regard. The Court has further observed that there is a delay in making such prayer and further the Court has observed that if such application or prayer is allowed, it will amount to allowing to fill the lacunas.

6. In the above referred backdrop, a specific query was put to the learned counsel for the petitioner, whether the findings recorded by the learned trial Court that there are no pleadings or no evidence led to the effect that it was a typographical mistake, is correct. He fairly states that there are no pleadings made to that effect.

7. He further points out that, now after the rejection of the application Exh.41, an application for amendment came to be filed vide Exh.47, the same is pending for reply of the accused.

8. Thus, in light of the admitted position that there are no pleadings to the effect that, it was a

typographical mistake to put the date on the cheque as 31.12.2021 instead of 31.12.2020, the learned trial Court is right in not allowing the petitioner to lead evidence in that regard. It is a settled law that oral evidence without pleadings cannot be considered.

9. In the circumstances, as there is no error committed by the learned trial Court in rejecting the application Exh.41 vide order dated 05.11.2024, I do not find any reason to interfere with it. However, in view of the application filed by the petitioner for amendment, the petitioner is at liberty to move application for recall of witness, if such application is allowed.

10. Needless to mention here that, if any application is moved in a contingency that the application for amendment is allowed, the learned trial Court shall decide such application on its own merit as per law.

Accordingly, the writ petition is **disposed of** in above referred terms.

JUDGE