

ORDER BELOW APPLICATION AT EXH. 29

1. The brief facts leading to the filing of this application are that the Complainant instituted the present prosecution under Section 138 of the Negotiable Instruments Act, 1881, alleging the dishonor of a cheque issued by the Accused toward the discharge of a legally enforceable debt. The matter has proceeded through trial and is currently at the stage of final arguments. At this juncture, the Complainant detected a typographical oversight across the record: the subject cheque number was mistakenly transcribed by omitting its final two digits. The Complainant contends that this is a purely accidental, *bona fide* clerical error that does not change the core matrix or nature of the case, as the original cheque and the corresponding bank return memo both of which contain the complete and correct six-digit cheque number were filed along with the complaint at the very inception of the trial. The Complainant argues that preventing this correction would cause a miscarriage of justice on a mere technicality. They have relied on -
 - **Bhim Sinh V. ken sinh (2004 cri LJ 4306)**
 - ***S.R. Sukumar v. S. Sunaad Raghuram 2015 Law suit (SC) 618***
 - ***M/s Bangi linganna V. State of Andhra Pradesh criminal revision case no. 928/2019***
 - ***Smt. Lajvati V. State of UP & Ors. Crim Msc writ petition no. 9577 of 2013***
2. Despite notices regarding this application being issued to the Accused several times and ample opportunities being afforded by this Court, the Accused has chosen not to file any written reply or raise any formal objection to the said application, thereby leaving the Complainant's averments largely uncontroverted on record.
3. Having heard the learned counsels and having scrutinized the judicial record, this Court finds that the primary issue for determination is whether a criminal court possesses the power to allow an amendment to cure a typographical error regarding a cheque number at a belated stage of the trial. While the Code of

Criminal Procedure, 1973 (and the current BNSS, 2023) does not contain an express, rigid provision for the amendment of pleadings similar to Order VI Rule 17 of the Civil Procedure Code, the legal jurisprudence on this point is well-settled. The Supreme Court of India in ***S.R. Sukumar v. S. Sunaad Raghuram (2015) 4 SCC 609*** explicitly ruled that if an amendment is purely formal in nature, seeks to correct a simple typographical or clerical error, and does not cause incurable prejudice to the accused, there is no absolute legal bar for a court to permit such an amendment to prevent the frustration of justice.

4. No objection raised by the Accused but it is the duty of the court to see that the defect in the statutory notice must be evaluated against the standard of "real prejudice" and the actual documents on record. In the present case, a bare perusal of the original documents reveals that Exhibit 18 (the Original Cheque) and Exhibit 19 (the Bank Return Memo) explicitly display the full, authentic six-digit cheque number. The error in the text of the legal notice and the complaint is restricted strictly to the accidental omission of the final two digits. Therefore, it cannot be argued that a "new" instrument or a separate transaction is being introduced at the eleventh hour. The Accused was fully aware of the specific dishonored cheque that formed the basis of the transaction from day one. In other identical scenarios, the Hon'ble Supreme Court, as well as various High Courts, including the landmark view in ***Oswal Finlease Private Limited v. State of Rajasthan***, have consistently held that when the original cheque and bank memo are correct, an error in the text of the notice or complaint is a minor clerical slipup. Substantive justice cannot be sacrificed at the altar of hyper-technicalities when the identity of the document is structurally beyond doubt.
5. However, this Court cannot remain oblivious to the fact that the trial has concluded and the matter is positioned for final arguments. Even in the absence of an active objection from the Accused, this Court must ensure complete procedural fairness. Since the Complainant's Examination-in-Chief also carries the same typographical error, allowing the amendment necessitates a minor procedural

rollback to ensure the sanctity of the trial record is maintained before final judgment is pronounced and therefore the following order.

:: Order ::

- The application filed by the Complainant stands **Allowed**.
- The Complainant is directed to file an amended complaint and a corrected Examination-in-Chief Affidavit within 7 days from today.
- To eliminate any technical or procedural prejudice and to afford a final opportunity to the Accused in the interest of a fair trial, the matter is reverted to the stage of cross-examination under Section 311 of the CrPC.
- The Accused shall be permitted a single, final opportunity to cross-examine the Complainant, restricted strictly to the correction made to the cheque number, on the next scheduled date of hearing. If the Accused fails to avail of this opportunity on the next date, the right to cross-examine shall stand closed, and the matter shall proceed straight to final arguments.

Order Pronounced in open court today ie. 01st June 20206

Date 01.06.2026

Place Mansa

(Ms. Damini Dixit)

Addl. Civil Judge and JMFC

Mansa