

ORDERS ON APPLICATION FILED FOR AMENDMENT OF COMPLAINT.

The present application is filed by the complainant when the matter was posted for the recording of the statement of the accused under Section 313 of CrPC. The complainant has filed the present application seeking the correction of the cheque number in the complaint.

2. In the application the complainant submitted that by oversight in the complaint, the cheque number is wrongly mentioned as '85674' instead of '856749'. Further learned counsel for complainant submitted that it is a typographical error and no harm or prejudice will be caused to the other side if this application is allowed.

3. On the other the accused has resisted the present application by filing his objections and stated that the present application is not maintainable at this stage. It is contended that the present application is filed without any provision of law or section. It is contended that the cheque number is totally different and now it is mentioned suprisingly. It is contended that in this case the cognizance is taken in respect of the cheque number '85674' at the time of filing of PCR and then a CC was registered from PCR on the same cheque number '85674'. It is further contended that the complainant has stated false reasons and if the said application is allowed then the proceeding have to be re-started or de novo and the accused will be put to great loss and damage and his rights will be curtailed. The accused has further contended that there is no option for amendment of complaints and the present application is not maintainable under law and facts. By stating all these grounds the accused has sought for rejection of the application with costs.

4. Heard both sides and perused the materials on record. In the sworn statement the cheque number is mentioned as '85674' which is mentioned in the complaint also. But in the plea dated 19.09.2018 recorded by this Court, the cheque number is correctly mentioned as '856749'.

5. It is a well known fact that there is no separate provision in the Cr.P.C. which contemplates the procedure to amend the complaint. In the decision reported in **ILR 2016 Kar. Page I (S.R. Sukumar V/S Sunaad Raghuram)**, it is held that:

“ Petitions seeking amendment to correct curable infirmities can be allowed even in respect of complaints filed under section 200 of Cr.P.C. If the amendment sought to be made relates to a simple infirmity which is curable by means of a formal amendment and by allowing such amendment, no prejudice could be caused to the other side,

notwithstanding the fact that there is no enabling provision in the Code for entertaining such amendment, the Court may permit such an amendment to be made. On the contrary, if the amendment sought to be made in the complaint does not relate either to a curable infirmity or the same cannot be corrected by a formal amendment or if there is likelihood of prejudice to the other side, then the Court shall not allow such amendment in the complaint”.

6. By considering this if the proposed amendment is allowed, no hardship will be caused to the other side as the burden of proving the cheque number is on the complainant and in this regard there is also presumption in favour of the complainant under section 118 of the N.I. Act. As such proceed to pass the following:

ORDER

Application filed by the complainant dated 12.07.2024 seeking amendment of the complaint is hereby allowed on costs of Rs.300/-.

The complainant is permitted to amend the complaint as prayed in the application.

For amendment and amended complaint by **29.8.2024.**

Sd/-
(Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC, Koppa.