

IN THE COURT OF THE PRL. CIVIL JUDGE AND J.M.F.C AT TARIKERE

C.C.No.935/2025

COMPLAINANT

Sri. T.R. Rajashekar

vs.

ACCUSED

Sri. Y. Devakumar

Date: 09.02.2026

Proceedings or Orders of the Judicial Officer

**ORDERS ON APPLICATION DATED 27.01.2026
FILED BY THE COMPLAINANT FOR AMENDMENT
OF THE COMPLAINT**

1. The instant application is filed by the Complainant seeking amendment of the complaint to the extent stated in the application.

2. In the application, it is contended that the case has been instituted seeking punishment of the Accused for the offence punishable under Section 138 of the Negotiable Instruments Act. At the time of instituting the complaint, the cheque amount was wrongly mentioned as Rs. 5,00,000/- instead of Rs. 6,00,000/- due to a typographical error, though the subject-matter cheque is for an amount of Rs. 6,00,000/-. The said error that has crept into the complaint is purely typographical and not intentional. Hence, the Complainant prays that the application be allowed.

3. Resisting the application, the Accused has filed objections contending that the application, in its present form, is not maintainable. It is further contended that both the legal notice as well as the complaint disclose the cheque amount as Rs. 5,00,000/-, whereas the cheque amount is shown as Rs. 6,00,000/-. In such circumstances, the

application seeking amendment of the complaint is not maintainable and is liable to be rejected. Hence, the Accused prays that the application be rejected.

4. Heard both sides.

5. Having heard both sides and on perusal of the materials, the sole point that would arise for my consideration is –

Whether the Complainant has made out sufficient grounds to allow the application filed seeking amendment of the complaint?

6. My answer to it would be in the "**Affirmative**" for the following reasons -

7. The present private complaint has been instituted against the Accused alleging offence punishable under Section 138 of the N.I Act. The instant application seeking amendment of the Complaint came to be filed at the stage when the case stood posted for recording of the plea of the Accused.

8. There is absolutely no doubt about the settled position of law being that an amendment to a criminal complaint cannot be sought as a matter of right in the absence of there being any enabling provision in the B.N.S.S. The one authoritative Judgment on the point of allowing the amendment to a criminal complaint is the Judgment of the Hon'ble Supreme Court of India in **S.R SUKUMAR V. SUNAAD RAGHURAM** reported in **(2015) 9 SCC 609** wherein, it is held at Para No.19 and 20 as under –

19. *What is discernible from U.P. Pollution Control Board case [(1987) 3 SCC 684 : 1987 SCC (Cri) 632] is that an easily curable legal infirmity could be cured by means of a formal*

application for amendment. 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.

20. *In the instant case, the amendment application was filed on 24-5-2007 to carry out the amendment by adding Paras 11(a) and 11(b). Though, the proposed amendment was not a formal amendment, but a substantial one, the Magistrate allowed the amendment application mainly on the ground that no cognizance was taken of the complaint before the disposal of amendment application. Firstly, the Magistrate was yet to apply the judicial mind to the contents of the complaint and had not taken cognizance of the matter. Secondly, since summons was yet to be ordered to be issued to the accused, no prejudice would be caused to the accused. Thirdly, the amendment did not change the original nature of the complaint being one for defamation. Fourthly, the publication of poem Khalnayakaru being in the nature of subsequent event created a new cause of action in favour of the respondent which could have been prosecuted by the respondent by filing a separate complaint and therefore, to avoid multiplicity of proceedings, the trial court allowed the amendment application. Considering these factors which weighed in the mind of the courts below, in our view, the High Court rightly declined to interfere with the order passed by the Magistrate allowing the amendment application and the impugned order does not suffer from any serious infirmity warranting interference in exercise of*

jurisdiction under Article 136 of the Constitution.

9. On careful reading of the above two paragraphs, it can be unmistakably gathered that amendment to a criminal complaint can be allowed only to a limited extent and on the satisfaction that the same only relates to a simple or curable infirmity causing no prejudice to the Accused and not where such amendment relates to a substantial infirmity.

10. Applying the ratio to the facts of the present case, the case records indicate that the subject-matter cheque is for an amount of Rs. 6,00,000/-, and there is a mention of Rs. 5,00,000/- in the complaint. The error appears to be purely typographical in nature. Further, the case is still at its initial stage and is posted for recording the plea of the Accused. Allowing such an amendment, which is typographical as aforesaid, would not cause any prejudice to the Accused, who is at liberty to challenge the said discrepancy by exercising his right of cross-examining the Complainant. However, there is some delay in preferring the application, which requires to be compensated by imposing appropriate costs. With these observations, without pondering much, I answer the sole point which has arisen for my consideration in the "**Affirmative**" and proceed to pass the following -

ORDER

Application dated 27.01.2026 filed by the Complainant for amendment of the complaint is hereby allowed on costs of Rs.500/-.

Consequentl, Complainant is permitted to amend the complaint as sought for.

Amendment shall be carried out within the next hearing date.

To carry out amendment and to furnish amended complaint. Call on: 18.02.2026.

sd/-

Prl. Civil Judge and JMFC.,
Tarikere