

KAUK220006572022



**IN THE COURT OF SENIOR CIVIL JUDGE AND
JMFC, ANKOLA, AT ANKOLA, UTTARA KANNADA.**

Dated this the 11th day of MARCH, 2025.

Presided Over by:

Sri. MANOHARA M. LL.M
Sr. Civil Judge and JMFC, Ankola.

CRIMINAL CASE No.241/2022
(OLD C.C.No.673/2019)

COMPLAINANT: Soorya Credit Souharda Sahakari
Ltd. Alageri,
R/by its Loan Recovery Officer,
Shri Samrudda Narayan Nayak,

V/s

ACCUSED: Sandeep Mohan Gaonkar,

**ORDERS ON APPLICATION FILED UNDER
SECTION 311 OF CR.P.C. AND APPLICATION
TO AMEND THE COMPLAINT**

The complainant has filed the application under
Section 311 of Cr.P.C. It is stated in the application that

this case is posted for cross-examination. The relevant documents were produced at the time of filing of this case which has not been exhibited. The memo dated 14.06.2019 issued by Syndicate Bank stating that Account Blocked was also produced. The said memo has not been exhibited due to oversight. The said document is essential to adjudicate this case. No prejudice will be caused to the other side, if this application is allowed. Hence, it is prayed to recall PW 1 for marking the said document.

2. The complainant has filed application to amend the complaint by adding as Account Blocked after deleting the Insufficient Funds in the complaint.

3. In the affidavit filed in support of the application, it is stated that the complaint may be read as part and parcel of this application, and permission may be given to amend as Account Blocked instead of Insufficient Funds as per the memo on 14.06.2019. The said amendment is typographical error, No prejudice or inconvenience will be caused to other other side if the amendment is permitted. Otherwise, inconvenience will be caused to the complainant. The said amendment does not change the nature of the case nor goes to the root of

the case nor prejudicial to the interest of the accused. Hence, it is prayed to allow the application.

4. The accused filed objections stating that already cross-examination has been commenced. If the amendment is allowed, it will affect the defence of the accused which will waste the efforts of counsel for accused. When the complainant was asked whether any document is remained to produce, he stated that no document is remained to produce. The proposed amendment is not typographical mistake. It is for delay the proceeding and intentionally made. The false document is created. In the notice and affidavit, the said mistake has not been stated. The contents of applications are false story. The accused has not availed loan and hence, the said mistake is made, and loan account is created by the complainant. If the application is allowed, he will be put to irreparable loss which cannot be compensate in terms of money. On the other hand, if the application is dismissed, the complainant will not be put to any loss or hardship. Hence, it is prayed to dismiss the applications with costs.

5. Having heard both side and having perused the applications, objection and other materials following

points arise for consideration.

1. Whether the complainant made out ground to reopen the case by recalling PW 1 and permitting to exhibit the documents as prayed for?

2. Whether the complainant made out ground to amend the complaint as prayed for?

3. What order?

6. My answer to the above points are as under:-

Point No.1 and 2 : In the **affirmative**

Point No.3 : As per the final order for the following:

REASONS

7. **Point No.1 and 2**: Admittedly, this complaint is filed under Section 200 of Cr.P.C. against the accused. In the complaint, it is stated that the accused issued a cheque bearing No.703625 for Rs.99,400/- of Syndicate Bank, Branch:Basgoda, stating insufficient funds in the account, and the said cheque was presented through K.D.C.C. Bank, Branch Ankola, and the said cheque was returned with endorsement of insufficient funds. No doubt, the PW1 was cross-examined. During the recording of sworn statement 06 documents were

exhibited, and thereafter, he was further chief-examined, and 03 documents were marked. But, the endorsement regarding returning of cheque issued by Syndicate Bank has not been exhibited. Only letter issued by K.D.C.C. Bank is exhibited at Ex.P2. But, the said memo is produced at the time of filing of complaint along with list. The said memo says that Account Blocked. Hence, the mentioning of insufficient funds to return the cheque mentioning in the complaint might be due to typographical error or inadvertence. Hence, the said mistake is required to be amended. Moreover, the PW 1 is recalled to exhibit the said return memo. Hence, the said document is necessary. Moreover, the accused has got an opportunity to cross-examine. Hence, he will not be put to any injustice or prejudice. Consequently, I answer **point No.1 and 2 in the affirmative.**

8. Point No.3: In view of my reason on Point No.1 and 2, I proceed to pass the following:

ORDER

**The application filed under
Section 311 of Cr.P.C. and
application to amend the**

**complaint are hereby
allowed.**

(Dictated to the Stenographer, transcribed by her, transcription corrected by me and then pronounced in the open court on this **11th March, 2025**)

sd/-

(Manohara M.)
Senior Civil Judge, Ankola.