

<u>CNR No.MHWS040003792025</u> 	<u>ORDER BELOW EXH.13 IN</u> <u>S.C.C. No.250/2025</u> <u>Dated-22.06.2026</u>
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1] This is an application filed by the complainant to amend the complaint. But accused strongly opposed the application by filing say.

2] It is contended in the application that the complaint is pending for taking necessary steps for service of summons to the accused No.2. The report received discloses that the name of the accused No.2 is wrongly written in the complaint as Pavan Sitaram Lahane. The name of the accused is Yash Sitaram Lahane. The aforesaid mistake is not intentional. If the amendment is not allowed, it will cause loss to the complainant. Thus, he prayed to amend the complaint and sought correct the name of accused as Yash Sitaram Lahane instead of Pavan Sitaram Lahane.

3] The accused No.1 contended in his say that the mistake is not clerical. It goes to the root of the case. The notice was also issued in the name mentioned in the complaint. Thus, he prayed to reject the application.

4] Read the application and say. Perused record. Heard learned advocate for complainant and accused.

5] It is settled principle of law that though there is not provision for amendment of the complaint in the Code of Criminal Procedure or Bharatiya Nagarik Suraksha Sanhinta, in appropriate cases if the amendment sought to be made relates to a simple

infirmity which is curable by means of formal amendment and by allowing such amendment, no prejudice could be caused to the other side, it can be allowed.

6] In the present case, the complaint is filed against two accused. Accused No.1 appeared before the court. The second accused is Pavan Sitaram Lahane. As per Section 138 of the N.I.Act, the complainant must demand payment by sending a written notice within 30 days of receiving the bank written memo to the accused. If the notice is not sent or sent late, the accused is entitled to be acquitted as per the provisions of the Act. Section 138 of the Act creates a strict liability for dishonour of cheque.

7] Here, in all 8 cheques were persented for encashment. Same were dishonored. The complainant sent the demand notice to the accused No.1 and Pavan Sitaram Lahane. The notice was issued to the Pavan Sitaram Lahane as a authorized agent of Pravin Traders. In the complaint it is stated that Pavan Sitaram Lahane is the authorized agent of Pavan Traders. There is no mention either in the notice or in the complaint the name of Yash Sitaram Lahane as a authorized agent. There is no acknowledgement on record to show that Yash Sitaram Lahane received the demand notice though it was issued in the name of Pavan Sitaram Lahane. Thus, admittedly demand notice was not issued to the proposed accused Yash Sitaram Lahane. In absence of the issuance of demand notice, Yash Sitaram Lahane cannot be arrayed as accused in the present complaint.

8] Though in the application it is mentioned that the mistake was occurred due to typographical error, it does not appear the same. On the contrary, notice itself was issued in the name of

Pavan Sitaram Lahane as a authorized agent of Pravin Traders.

9] If the application is allowed, the entire nature of the complaint will change. The person cannot be prosecuted for the offence punishable under Section 138 of the Act without service of demand notice. In the result, following order is passed,

ORDER

1. Application is rejected.

(Subhash D. Tare)
Judicial Magistrate First Class
Mangrulpir.

Dated :- 22.06.2026

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/ Order are same word to word as per the original order.

Name of Court	2 nd Jt.C.J.J.D. & J.M.F.C., Mangrulpir, Dist. Washim.
Presiding Officer	Subhash D. Tare
Judgment uploaded by	N.F.Syed (Stenographer-III)
Date of Judgment	22.06.2026
Judgment/Order signed by the presiding officer on	22.06.2026
Judgment/Order uploaded on	22.06.2026