

<u>CNR No.MHWS040003812025</u> 	<u>ORDER BELOW EXH.4-A IN</u> <u>S.C.C. NO. 248/2025</u> <u>Dated-22.06.2026</u>
---	---

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 in the complaint reason for dishonour of cheque is wrongly typed as Funds Insufficient instead of 'drawers signature differs'. Therefore, the same is required to be corrected. Thus, the permission has sought to amend the complaint thereby to correct the reason for dishonour of cheque. The accused contended in his say that in the notice itself the complainant mentioned the reason for dishonour of cheque is Funds Insufficient. Therefore, the complaint cannot be amended. There is no provision to amend the complaint. Thus, he prayed to reject the application.

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

4] Learned advocate for complainant argued that the amendment sought is bonafide mistake. If the application is allowed, it will not cause injustice to the accused. In support of his submission he relied on the judgment of Hon'ble Rajasthan High Court in case of Oswal Finlease Private Limited Vs. State of Rajasthan and another reported in 2014 ALL M.R. (Cri) 365. On the other hand, learned advocate for accused submitted that there is no provision in the Code of Criminal Procedure or Bharatiya Nagarik

Suraksha Sanhinta to amend the pleading of complaint.

5] In case of Oswal Finlease Private Limited Vs. State of Rajasthan (cited supra) the complaint was filed under section 138 of N.I. Act. In the said complaint wrong cheque number has been narrated in the complaint and affidavit in support of the same. The cross-examination has been done on the said aspect. The Hon'ble High Court observed that the mistake came to the notice of the complainant after his cross-examination. The Hon'ble High Court held that no person could be penalized for his bonafide mistake and allowed the said application.

6] There is a judgment of Hon'ble Apex Court in case of S.R. Sukumar Vs. S.Sunaad Raghurav reported in (2015) 9 SCC 609. The Hon'ble Apex Court held that- "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, notwithstanding the fact that there is no enabling provision in the Code for entertaining such amendment, the Code 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".

7] In the present case, the complaint is filed for dishonour of cheque. The plea of the accused was recorded and it is pending for the evidence of the complainant. He has produced on record the cheque return memo. In the said memo the reason for dishonour of cheque is mentioned as "drawers signature differs". However, in the

complaint the reason mentioned is “insufficient funds”. Therefore, it appears that due to mistake in the complaint reason for dishonour of cheque has been mentioned as “funds insufficient” in place of “drawers signature differs”. In these facts and circumstances stated above, I am of the considered opinion that the mistake caused is genuine and can be cured by way of amendment. If at this stage application is allowed, it will not cause any prejudice to the accused. Therefore, I proceed to pass following order.

ORDER

1. Application is allowed.
2. The complainant is directed to carryout the necessary amendment till next date and shall file copies of amended complaint.

Dated :- 22.06.2026

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

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 :- 2nd Jt. Civil Judge (Jr.Dn.) and
J.M.F.C., Mangrulpir, Dist. Washim.

Presiding Officer :- Subhash D. Tare

Judgment uploaded :- N.F.Syed (Stenographer L.G)
by

Date of Judgment :- 22.06.2026

Judgment/Order :- 22.06.2026
signed by the
presiding officer on

Judgment/Order :- 22.06.2026
uploaded on