

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 6732/2022

Sanjay Gupta Son of Shri Narayan Dutt Gupta, aged about 58 Years, Resident of Old Railway Station Road, Owner Firm Modern Machinery Store, Alwar, Rajasthan.

-----Petitioner

Versus

Vishnu Dutt Sharma Son of Shri Sohanlal, aged about 40 Years, Resident of Gaaru, Tehsil Kathumar, District Alwar.

-----Respondent

For Petitioner(s)	:	Mr.Sanjay Yadav
For Respondent(s)	:	Mr.Rahul Sharma for Mr.Rajneesh Gupta

JUSTICE ANOOP KUMAR DHAND

Order

08/05/2026

1. By way of filing the instant petition, a challenge has been led to the impugned order dated 21.05.2022, passed by the Judicial Magistrate, Khairalmandi, District Alwar in Criminal Case No.22/184/2019 by which the application submitted by the complainant-respondent (hereinafter referred to as 'the complainant') for amending the cause-title of the complaint has been allowed.

2. Learned counsel for the petitioner submits that the complainant has filed a complaint under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') against the petitioner in his personal capacity while the cheque in question was issued by the petitioner in the capacity of partner of the partnership firm, i.e., M/s Modern Machinery Store. Counsel

submits that in all, there are four partners in the aforesaid partnership firm and neither the partnership firm, nor the other partners were arrayed as accused in the aforesaid complaint. Hence, the complaint filed by the complainant against the petitioner alone is not tenable and is liable to be quashed.

3. Learned counsel appearing on behalf of the complainant opposed the prayer and submitted that the cheque has been issued by the petitioner in the capacity of proprietor of M/s Modern Machinery Store. Upon dishonour of the aforesaid cheque, a legal notice was issued by the complainant to the petitioner in the said capacity of the proprietor. Thereafter, at later stage, when the complaint under Section 138 of the NI Act was filed, an application was submitted by the complainant for taking the amended cause-title on the record, wherein the name of the proprietorship was mentioned. Counsel submits that the Court below has not committed any error in passing the order impugned, taking the amended cause-title on the record, hence, under these circumstances, interference of this Court is not warranted.

4. Heard and considered the submissions made at the Bar and perused the material available on record.

5. Perusal of the record indicates that the complaint under Section 138 of NI Act has been submitted by the complainant against the petitioner. During pendency of the aforesaid complaint, an application was submitted by the complainant for taking the amended cause-title on record, wherein the petitioner's proprietorship firm, i.e., M/s Modern Machinery Store, was arrayed in the cause-title of the complaint.

6. This Court finds no substance in the arguments raised by counsel for the petitioner that the aforesaid firm is a partnership firm having its four partners as no such reply was submitted by the petitioner before the Trial Court. When the application for amending the cause-title was submitted by the complainant, the same was opposed by the petitioner simply on the count that the complaint cannot be filed against the sole person unless the proprietorship firm is impleaded as an accused.

7. This Court finds no error in the order impugned, which warrants any interference of this Court. Accordingly, the instant petition stands rejected. Stay application and all pending application(s), if any, also stand rejected.

(ANOOP KUMAR DHAND),J