

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAI PUR BENCH, JAI PUR.

ORDER

Oswal Finance Private Limited

Vs.

State of Raj. & Anr

S. B. Cr. MISC. PETITION NO. 192/2013.

under Section 482 Cr.P.C. for setting aside the impugned order dated 26.9.2013 passed by Addl. Civil Judge (CD) cum Addl. Chief Judl. Magistrate, No.10, Jaipur Metropolitan, Jaipur in Criminal complaint no. 869/2006



Date of Order : 6.1.2014

HON' BLE MRS. JUSTICE NISHA GUPTA

Mr Pankaj Gupta for the petitioner
Mr Laxman Meena, Public Prosecutor.
Mr. Rajesh Sharma for the respondent

BY THE COURT

This petition under Section 482 has been filed for setting aside the impugned order dated 26.9.2013 passed by Addl. Civil Judge (CD) cum Addl. Chief Judl. Magistrate, No.10, Jaipur Metropolitan, Jaipur in Criminal complaint no.869/2006 whereby he denied the right to make amendments in typographical errors in the details of bounced cheque.

Contention of the petitioner is that impugned order passed on application in which present petitioner has submitted that by typographical error the details disclosed in cheque has wrongly been mentioned in

complaint and in the affidavit of the complainant whereas impugned cheque and notice bear right number of cheque and also presented with the complaint hence mistake is bona fide, present petitioner be allowed to make amendments in complaint and also be allowed to file the new affidavit in support of complaint.



Per contra contention of the learned counsel for the respondent is that mistake is not bonafide. In the complaint wrong cheque number has been written and cognizance has been taken way back in year 2006 thereafter affidavit in support of the complaint also bears the wrong cheque number on which cross examination has been done hence the court below was justified in not allowing the amendments.

Heard learned counsel for the parties and perused the impugned orders.

There is no dispute about the fact that wrong cheque number has been narrated in the complaint and affidavit in support of the same also contains same wrong cheque number but at the same time it is also true that impugned cheque, return memo from bank and notice which were presented along the

complaint bear the cheque number which the present petitioner now wants to correct and the court below while taking cognizance should be vigilant that complaint and affidavit should contain the same cheque number which has been placed on record.



Contention of the learned counsel for petitioner that mistake is bonafide seems to be true. Respondent has relied on 2012 (2) Cr. L. R. (Raj) 904, M. R. Choudhary v. State of Rajasthan where the complaint was filed about a particular cheque whereas cheque submitted before the trial court was different. Hence the accused was acquitted but here in the present case, present petitioner wants to rectify his bonafide mistake. Further reliance has been placed on AIR 2008 SC 3086, Subodh S. Salaskar v. Jai prakash M. Shah & Ors. where on the facts of the case, amendments on the complaint has been disallowed. But here in the present case, when complainant has been cross examined, the mistake came to the notice of complainant and application for the rectification has been moved and no person could be penalized for his bonafide mistake.

Hence, application is liable to be allowed

and the present petitions is allowed and the order dated 26.9.2011 passed by Addl. Civil Judge (SD) cum Addl. Chief Judl. Magistrate, No. 10, Jaipur Metropolitan, Jaipur in Criminal complaint no.869/2006 is set aside. Present petitioner is allowed to make necessary amendments in the complaint as about the details of bounced cheque and he is allowed to file a fresh affidavit in support of his complaint and the respondent is free to cross examine on the same.

With the aforesaid, this petitions is disposed of.

(NISHA GUPTA), J.

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All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Om Prakash

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