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3. During the pendency of the case, the respondent filed an application on 14.03.2018 seeking amendment of the complaint to the extent that in para 4 and 10 of the complaint and para 3 of the notice, inadvertently '*State Bank of Patiala*' has been mentioned instead of '*HDFC Bank*'. Similarly, in para 10 of the complaint, '*City Sunam, P.S. City Sunam*' has been written instead of '*Village Khadial, P.S. Chhajli*'. The learned trial Court, vide order dated 07.06.2018 (Annexure P-4), allowed the said application. Aggrieved by the same, the petitioner has filed the instant petition.

4. Learned counsel for the petitioner submits that the learned trial Court has erred in allowing the application for amendment of complaint as there is no provision in the Cr.P.C that allows for the same. An amendment can only be allowed if it is sought before the competent Court takes cognizance of the complaint and that stage has already passed. Further, the amendment sought pertains to a serious infirmity that goes to the root of the matter and as such, cannot be allowed. Reliance in this regard can be placed on the judgment rendered by the Hon'ble Supreme Court in **S.R. Sukumar v. S. Sunaad Raghuram 2015(3) R.C.R(Criminal) 570** and this Court in **Jai Mata Traders v. Unique Foundary Regd. CRM-M-22475-2008**.

5. Per contra learned counsel for the respondent submits that the mistakes sought to be rectified were merely typographical in nature. The amendment sought was necessary for proper and just adjudication of the matter at hand. Moreover, no prejudice would be caused to the petitioner in allowing the amendment. The learned trial Court has passed a well-reasoned order based on correct appreciation of law and therefore, no interference is warranted by this Court.



6. Having heard learned counsel for the parties and perusing the record of the case, it transpires that bank of the respondent-complainant, where he presented the dishonored cheque was HDFC Bank. However, the respondent wrongly mentioned it as State Bank of Patiala in the complaint. Further, a perusal of para 10 of the complaint reveals that the respondent mentioned the correct branch of the bank i.e., 'Khadiyal' but while stating the jurisdiction of the trial Court to try the case, the respondent mistakenly mentioned 'City Sunam, P.S. City Sunam' in place of 'Village Khadiyal, P.S. Chhajli'. The amendment, which seeks to rectify these minor defects, is merely formal in nature and does not impact the heart of the case. Moreover, by allowing the amendment to the complaint, no new facts or circumstances emerge, and thus, allowing the changes would in no way hamper the defense put forth by the petitioner. Therefore, the infirmity was correctly cured by the learned trial Court by allowing the application for amendment of the complaint. Furthermore, no prejudice has been caused to the petitioner by the amendment and he can still raise all pleas available to him.

7. A two Judge bench of the Hon'ble Supreme Court in **S.R. Sukumar v. S. Sunaad Raghuram(supra)**, speaking through Justice R. Banumathi, the following was held:

*"17. Insofar as merits of the contention regarding allowing of amendment application, it is true that there is no specific provision in the Code to amend either a complaint or a petition filed under the provisions of the Code, but the Courts have held that the petitions seeking such amendment to correct curable infirmities can be allowed even in respect of complaints. In **U.P. Pollution Control Board v. Modi Distillery And Ors., (1987) 3 SCC 684**, wherein the name of the company was wrongly mentioned in the complaint that is, instead of Modi Industries Ltd. the name of the company was mentioned as Modi Distillery and the name was sought to be amended. In such factual background, this Court has held as follows:-*

*"...The learned Single Judge has focussed his attention only on the technical flaw in the complaint and has failed to comprehend that the flaw had occurred due to the recalcitrant*



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*attitude of Modi Distillery and furthermore the infirmity is one which could be easily removed by having the matter remitted to the Chief Judicial Magistrate with a direction to call upon the appellant to make the formal amendments to the averments contained in para 2 of the complaint so as to make the controlling company of the industrial unit figure as the concerned accused in the complaint. All that has to be done is the making of a formal application for amendment by the appellant for leave to amend by substituting the name of Modi Industries Limited, the company owning the industrial unit, in place of Modi Distillery.... Furthermore, the legal infirmity is of such a nature which could be easily cured..."*

*18. What is discernible from the **U.P. Pollution Control Board's case** is that easily curable legal infirmity could be cured by means of a formal application for amendment. If the amendment sought to be made relates to a simple infirmity which is curable by means of a 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 Court 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.*

Further, a two Judge bench of the Hon'ble Supreme Court in **Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and Another 2016 AIR (Supreme Court) 2519**, speaking through Justice A.K. Sikri, made the following observations:

*"18. What we are emphasising is that even in criminal cases governed by the Code, the Court is not powerless and may allow amendment in appropriate cases. One of the circumstances where such an amendment is to be allowed is to avoid the multiplicity of the proceedings. The argument of the learned counsel for the appellant, therefore, that there is no power of amendment has to be negated."*

8. In view of the discussion above, the present petition is dismissed and the order dated 07.06.2018 (Annexure P-4) passed by learned Judicial Magistrate Ist Class, Sunam is upheld.

24.03.2025  
Ajay Goswami

(HARPREET SINGH BRAR)  
JUDGE

*Whether speaking/reasoned : Yes/No*  
*Whether Reportable : Yes/No*