

Amendment to the complaint u/s 138 of the NI Act can be made at the post-cognisance stage, provided that no 'prejudice' is caused to the accused and the complainant's cross-examination is awaited

The Supreme Court in the case of **Bansal Milk Chilling Centre vs Rana Milk Food [SLP (CRL.) No. 15699 of 2024] dated July 25, 2025**, has ruled that an amendment to a complaint u/s 138 of the Negotiable Instruments Act, 1881 can be made at the post-cognisance stage, provided that no 'prejudice' is caused to the accused and the complainant's cross-examination is awaited. The Court observed that the complainant's request to amend the complaint u/s 138 of the NI Act was allowed, as no cross-examination had been concluded, and the correction changing “Desi Ghee (milk products)” to “milk” was a typographical error appearing in both the legal notice and the complaint, which did not prejudice the accused.

Carefully perusing the complaint and the application for amendment, the Supreme Court found that the amendment was moved at a stage when, after a summons had been issued to the respondents, the chief examination of the complainant had concluded, and when cross-examination was awaited. The amendment made is also only with regard to the products supplied.

Whether any prejudice would be caused to the accused/respondents, and what impact the amendment will have on the existence of debt or other liability, is for the Trial Court to decide based on the evidence. Since it was a curable irregularity which the Trial Court rightly addressed by allowing the amendment, the Supreme Court held that no failure of justice would occur by allowing the amendment of the complaint at a stage when the evidence of the complainant was incomplete. Finally, the Apex Court concluded that the amendments are not barred post-cognisance if they don't change the complaint's nature or cause prejudice to the accused.

Link

https://api.sci.gov.in/supremecourt/2024/51943/51943_2024_5_1501_62661_Judgement_25-Jul-2025.pdf