

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.4287 of 2013 (O&M)

Date of decision: 03.07.2015

Jaspal Singh

... Petitioner

versus

Simranjit Kaur alias Chhindo alias Salwinder Kaur Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Amandeep Singh Manaise, Advocate,
for the petitioner.

Mr. R.D. Bawa, Advocate,
and Mr. Randhir Bawa, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petition for amendment in a matrimonial petition for divorce on the ground of cruelty was brought by the husband by seeking to make reference to a written pleading filed by the wife in court proceedings that the petitioner was guilty of intimacy with sister-in-law. When the petition for amendment was filed, the wife filed her objections saying that she was illiterate and the statement had been drawn in English by the counsel by making reference to illicit intimacy which she did not intend to state. She made a further

reference to the fact that the statement contains an averment that the petitioner was poisoned but she meant to use it only in a figurative sense and not literally that the sister-in-law was attempting to poison the mind and not the body literally. The contention was that when she came to know about the statement, she had withdrawn the statement and hence, the petition for amendment ought not to be allowed.

2. The court below has passed an order which is untenable on the face of it. The court below has already accepted the contention by the respondent that since the wife was illiterate, she did not intend to attribute illicit intimacy of the husband with his sister-in-law. The court has passed an order observing that the wife had stated that she did not mean it and hence, the petition cannot be allowed. It would amount to pre-judging the issue of whether she intended to state it or not. The pleading in court is a public document and if she would plead illiteracy to an averment contained in an affidavit sworn to by her and attested by a counsel, that cannot merely be taken as withdrawn but will have to be tested in cross-examination in court. The wife ought to really take the application for amendment to come as a blessing to her, for, she at least gets now an occasion to explain in the additional reply which she will have an occasion to file. If the application for amendment is ordered, she may plead what she wants to say about the statement

already made by her against the petitioner's alleged illicit intimacy and if she would have any explanation to give, she may do so and the truth or otherwise will be assessed by the court on evidence at the trial. The order cannot be sustained, for, it has prevented a party from relying on a recital in a public document and would constitute very serious prejudice.

3. The impugned order is set aside and the revision petition is allowed. The respondent will have liberty to file an additional reply or amendment to the reply in the manner contemplated under Order 8 Rule 9 CPC to join issues on the amended portion of the petition. Needless to state that any of the observations made, while disposing of this civil revision petition, are only for the purpose of this petition and ought not to be taken as colouring the perception for a final adjudication at the trial.

4. Civil revision is allowed on the above terms.

(K.KANNAN)
JUDGE

03.07.2015
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