

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

CR No.6097 of 2016(O&M)

Date of decision:19.9.2016

Jatinder Singh @ Jitender Singh

....Petitioner

VERSUS

Jagdeep Kaur

.....Respondent

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Vaibhav Sehgal, Advocate for the petitioner.

REKHA MITTAL, J.

By invoking Article 227 of the Constitution of India, the present petition directs challenge against order dated 17.08.2016 (Annexure P-1) passed by the Additional District Judge, Ludhiana, dismissing application for amendment of the petition filed under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage of the parties.

Counsel for the petitioner would contend that the petitioner has prayed for a decree of divorce on the ground that the respondent-wife has treated him with cruelty. The respondent has levelled false and frivolous allegations regarding his illicit relations with his sister in law (bhabhi) Amrit Pal Kaur and had seen them in a compromising position in November 2015, on the eve of Diwali. These allegations are an attack on character of the petitioner and are contained in affidavit Ex.RW1/A

tendered into evidence by way of examination in chief by the respondent-wife.

The petitioner filed the instant application for amendment in view of the allegations levelled by the respondent which are otherwise beyond pleadings (written statement) but the trial Court has wrongly and illegally dismissed the application by assigning reasons that cannot stand the test of judicial scrutiny. In addition, it is submitted that in case the petitioner is permitted to amend the petition, he will not adduce any further evidence to substantiate the plea sought to be added by way of amendment.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

As the petitioner has sought to amend the petition for adding subsequent events reproduced in sub-para (a) of para 2 of the application, on the basis of allegations raised by the respondent during course of evidence by tendering her affidavit Ex.RW/1, obviously the trial Court would be entitled to take into consideration the subsequent events in order to decide whether the allegations levelled by the respondent would amount to cruelty or otherwise. As such, there is no merit in contention of the petitioner that in case the petitioner is not allowed to amend the petition, the same would cause prejudice to him or the proposed amendment is necessary for complete and effective adjudication of the matter in controversy.

With the aforesaid observations, the petition stands disposed of.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondent in order to save her

from unnecessary expense and inconvenience. However, the respondent would be at liberty to file an appropriate application in case she has any grievance to express.

SEPTEMBER 19, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned

:

yes/no

Whether reportable

:

yes/no