

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL MISCELLANEOUS JURISDICTION No.300 of 2017

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Mrs. Pramiti Bose, Wife of Kabir Shankar Bose, Daughter of Sri Kalyan Banerjee,
resident of and residing at 37-C, Harish Chatterjee Street, P.S.-Kalighat, District-
kolkata-700026.

.... Petitioner.

Versus

Mr. Kabir Shankar Bose, Son of Sri Samir Bose, Resident of Y-14, Green Park,
New Delhi.

.... Respondent

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Appearance :

For the Appellant/s : Mr. J.S. Arora, Sr. Adv.

For the Respondent/s : Mr. W. Rahman, Adv.

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 15-03-2017

Heard Mr. J.S.Arora, learned senior counsel
appearing on behalf of the petitioner and Mr. W. Rahman, learned
counsel appearing for the respondents.

Questioning the legal sustainability of the
impugned order dated 09.02.2017 passed in Matrimonial Case No.43
of 2017 by the Principal Judge, Family Court, Patna allowing the
amendment of the pleadings as prayed on behalf of the husband
petitioner of the said case, the present application under Article 227 of
the Constitution of India has been filed by the wife-opposite party of
the said case.

With the consent of the parties, the present
application is being disposed of at this stage.



As the factual matrix would undrape, the husband as petitioner filed a petition (H.M.A. No. 834 of 2015) under Section 13(1)(i-a) of the Hindu Marriage Act 1955 before the Principal Judge, Family Court, Patiala House, New Delhi, seeking divorce. The wife-opposite party therein filed the Transfer Petition (Civil) No.1988/2015 before the Hon'ble Supreme Court and by order dated 25.11.2016, the Hon'ble Court directed the transfer of the H.M.A. No. 834 of 2015 to the file of the Principal Judge, Family Court, Patna with further direction to dispose of the same by the end of March 2017 and to intimate the factum of disposal to the registry of the Hon'ble Supreme Court. The Principal Judge, Family Court, Patna was also directed to fix the date of hearing on a Saturday as well even if it was a clearance day and if the Saturday was a Holiday then to fix the matter on Wednesday or Thursday. After the transfer, the said case has been numbered as Matrimonial Case No.43/2017 before the Principal Judge, Family Court, Patna.

On 28.01.2017, a copy of the amendment petition seeking amendments in the main petition of the matrimonial case, apparently filed on 05.01.2016 by the husband-petitioner therein, was served upon the wife-opposite party. The rejoinder was filed by the wife-opposite party on 04.02.2017 and ultimately by the impugned order dated 09.02.2017, after hearing the parties, the learned court



below has allowed the prayer for amendments in the main petition of the matrimonial case, as prayed.

At this juncture, it would be fruitful to briefly take into notice the averments and the reliefs prayed by the husband-petitioner in his petition seeking divorce (Annexure-P/1). It has been averred therein that after three years of courtship, the petitioner and the respondent were married on 18.11.2010. After medical assistance, the wife conceived and gave birth to a male child on 14.04.2014. The couple lived together till 20.04.2015 on which date it has been alleged that the wife petitioner deserted the husband respondent. After describing the conduct and behavior of the wife petitioner in detail in the main petition (Annexure-P/1), the husband –respondent has prayed for a decree of divorce under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955 on the ground of cruelty .

By filing the amendment petition under Order 6 Rule 17 C.P.C., the husband-petitioner has sought to amend the prayer clause of the main divorce petition and has also sought to incorporate further statements of facts as paragraph-36(a) to 36(e) in the main petition. It would be transparent from the amendment petition (Annexure-P/3) that the husband–petitioner has sought to amend the prayer clause seeking to insert the relief for a decree of annulment of marriage under Section 12(1)(c) of the Hindu Marriage Act, 1955 on



the ground of fraud as the main relief, and the relief for grant of a decree of divorce under Section 13 (1)(i-a) of the Hindu Marriage Act, 1955 on the ground of cruelty has been sought to be made the alternative relief in the matrimonial case. It further appears from the amendment petition that the husband respondent by proposing to insert paragraph 36(a) to 36(e) has sought to introduce the fact that the wife-opposite party was suffering from a condition called Pelvic Inflammatory Disease (PID) which is caused by a sexually transmitted disease communicable in nature but the said fact was concealed by the wife-opposite party from the husband-petitioner which he came to know from the relatives of the wife-opposite party in the first week of December 2015. The further facts relating to the surgery of the wife-opposite party on 07.12.2012 in Kolkata, IVF treatment in Singapore and obtaining the opinion from the doctor regarding possible infection to the minor son through email and its reply on 17.12.2015 have also been sought to be incorporated.

For convenience, the parties shall, hereinafter, be referred as wife-petitioner and husband-respondent which is the position held by them in the present application.

While criticizing the impugned order, Mr. Arora, learned senior counsel appearing for the wife petitioner has submitted that the learned court below has committed grave material irregularity



in ignoring the materials on record including the statements of the husband-respondent in the pleading as well as other documents which amount to vital admissions of the husband-respondent disentitling him from seeking the relief as prayed for by the amendment. It has been contended that by the amendments which have been allowed by the learned court below the main relief for grant of a decree of divorce on ground of cruelty has been made an alternative relief and the relief for a decree of annulment of marriage on ground of fraud has been made the primary relief. After elaborately referring to the averments made by the husband respondent in his main petition, the amendment petition as well as the petition dated 17.06.2016 sent by the husband-respondent to the police, it has been argued that the relief for annulment of marriage as sought to be introduced by amendments, is clearly barred by Section 12 (2) (a) of the Hindu Marriage Act, 1955. It has been emphasized that the materials on record demonstrably show that the husband-respondent was aware of the facts regarding the disease(s) which the wife-petitioner had allegedly been suffering as far back as in the year 2012 itself, and the relief for annulment of marriage, at this stage and also in the manner, in this backdrop, is clearly barred by the statute. It has also been contended that the relief for annulment of marriage and the relief for divorce are mutually inconsistent reliefs and could not have been legally allowed by the



learned court below in the facts and circumstances of the case. It has been asserted that a right has been conferred by the statute to the wife-petitioner to be not sued for annulment of marriage under Section 12(1)(c) after lapse of one year after the alleged fraud had been discovered or after living as husband and wife thereafter. It has been finally submitted that the learned court below has passed the order in perfunctory manner ignoring the settled principles of law governing the adjudication of the prayer for the amendment which would change the nature, scope and cause of action, and further ignoring the statutory bar for such a relief against the wife petitioner.

Per contra, Mr.Rahman, learned counsel appearing for the husband- respondent has emphatically tried to persuade this Court that no illegality or material irregularity has been committed by the court below in passing the impugned order as the amendments which have been sought for being pre-trial amendments are to be liberally allowed. It has been canvassed that soon after getting the knowledge of the fraud played upon him by his wife in concealing the fact that she was suffering from a sexually transmitted disease known as Pelvic Inflammatory Disease (PID) Chlamydia, the husband-petitioner of the matrimonial case immediately filed the petition for amendment seeking annulment of the marriage on the said ground as primary relief. It has also been contended that the amendments do not



introduce a new facts at all as the averments in the main petition contain the foundation for such facts which is no surprise to the wife-petitioner. It has been next contended that the merits of the relief or the facts to be incorporated by amendment cannot be adjudicated at the time of considering the prayer for amendment and the prayer for amendment cannot be rejected for the said reason. It has also been submitted that the bar of the relief by limitation or otherwise being a mixed question of law and facts is to be considered at the time of hearing of the case on the basis of the evidence adduced by the parties. It has been finally argued that in the fitness of things it would be just and proper to uphold the impugned order allowing the amendments in question and direct the learned court below itself to decide all the issues including the issue of bar of the relief by limitation or otherwise at the time of hearing.

A number of decisions have been cited on behalf of the parties in support of their rival contentions and the same shall be appropriately taken into notice hereinafter.

After careful consideration of the rival submissions on behalf of the parties as well as the materials on record, it is pellucid that the husband respondent has filed the matrimonial case HMA No. 834/2015 seeking a decree of divorce from the wife petitioner on ground of cruelty. From the averments made in the main



petition (Annexure-P/1) it does not appear that any allegation of fraud by concealing the fact of disease by the wife petitioner has been made. Even in paragraph-6 of the main petition, which has been referred by learned counsel for the husband-respondent in support of the contention that the fraud or concealment of fact has been tangentially pleaded, it does not appear that those averments are anywhere near to the allegations/facts pertaining to fraud which are sought to be incorporated in the main petition as paragraph 36(a) to 36 (e) by way of amendment. To the contrary the averments made in paragraph 24 of the main petition demonstrates the awareness of the husband-respondent in 2012-13 on the basis of medical investigation that the wife-petitioner was unable to conceive naturally and further that the wife-petitioner was taken to Singapore where after the medical intervention she could conceive. The averments in the main petition further disclose that a male child was born on 14.04.2014 and the parties resided together as husband and wife till the alleged desertion on 20.04.2015 by the wife petitioner.

The statements in the amendment petition (Annexure-P/3), however, introduce the case that the husband-respondent for the first time came to know in the first week of December 2015 from the relatives of the wife-petitioner that she was suffering from a Sexually Transmitted disease (STD), Chlamydia and



after search of the medical records, the husband-respondent came to know that the wife petitioner suffered from Pelvic Inflammatory Disease (PID). It has also been stated that the husband-respondent apprehending infection to the minor son thereafter sought an opinion from the doctor who treated the wife petitioner in Singapore and after receiving email reply on 17.12.2015 the husband-respondent realized that he had been fraudulently induced by the wife petitioner for marriage concealing the said material fact.

Referring to the averments made in the amendment petition (Annexure P/3) and the amendments sought to be incorporated in the main petition, learned senior counsel for the wife-petitioner has contended that these statements amount to admission by the husband-respondent disclosing his awareness to the facts including the information regarding the alleged diseases of the wife-petitioner from much before. In this regard, strong reliance has been placed upon the letter dated 17.06.2016 sent by the husband-respondent to the police authorities requesting to register an FIR immediately against the wife-petitioner. The said letter is annexed as Annexure-A to the rejoinder (Annexure P/4) filed on behalf of the wife-petitioner to the petition for amendment in the court below. It is pertinent to note that the fact of writing the said letter to the police and its contents have not been denied by the husband-respondent



either in the court below or before this Court. In this letter to the police the husband respondent has stated that the wife petitioner was taken to Singapore for specialized treatment and during treatment, it was discovered that the wife-petitioner harbored a serious disease “Chlamydia” which was chronic in nature and the cause of the barrenness and she also had “Liver Bed Adhesions.” It has significantly been also stated therein that the husband-respondent gave his consent to go ahead with the procedure of IVF treatment on the basis of the categorical assurance of the IVF Doctor that the baby would not contract “Chlamydia” or any other disease. From these statements made in paragraph -2 and 3 of the letter to the police by the husband-respondent, it is demonstrably clear that the husband-respondent has accepted to have got the knowledge of the fact of the alleged disease Chlamydia or the other disease of the wife-petitioner during the IVF treatment at Singapore itself and it was only thereafter that he gave his consent for such treatment on the assurance by the doctor that the child to be born would not contract this disease Chlamydia or any other disease . It is also evident from these averments that after the birth of the child on 14.04.2014 the husband-respondent and the wife-petitioner had lived together as husband and wife and celebrated the first birthday of their child, and thereafter the desertion by the wife-petitioner has been alleged to have taken place



on 20.04.2015.

Further, in the averments, sought to be incorporated by amendment as paragraph-36(b), the assertions have been made that the wife-petitioner had undergone a surgery on 07.12.2012 at Kolkata and the O.T. report of such surgery had opined that the wife-petitioner had “Liver Bed Adhesion” due to PID. It is not the case of the husband respondent that the surgery at Kolkata on 07.12.2012 was done without his knowledge or the O.T. report mentioning specific diseases was also not in his knowledge. To the contrary, the insurance claim settlement advice [(Annexure-P/1) (b)] which is the one of the documents of the husband-respondent as produced with his main petition of the matrimonial case, discloses that the said claim settlement advice for the medical treatment at Kolkata has been issued in the name of the husband-respondent as primary member, and the final diagnosis has also been mentioned therein as “other Female Pelvic Inflammatory Disease”

Though the husband-respondent in the petition for amendment has tried to make out a case that it was only after getting the knowledge of the disease of the wife-petitioner, he had sought information from Dr. Charles of Singapore regarding the possibility of infection to the minor son and the email reply from the said doctor was received on 17.12.2015 mentioning that the OT report of



07.12.2012 showed Liver Bed Adhesions which is a characteritic of prior Chlamydia infection. However, the said email reply on 17.12.2015 [(Annexure P/3(a))], remarkably does not contain any opinion regarding the possible infection to the child though the query was said to have been made only in that regard by the husband-respondent. Further the said email reply refers only to the previous medical reports of the year 2013 and surgery of the year 2012 showing absence of Chlamydia antigen indicating absence of active disease at that time. But in any view of the matter, it is vivid enough from the admitted documents on record that the plea of seeking query by email in December 2015 by the husband- respondent with regard to the possible infection to the minor son is itself not in consonance with his own case as stated in his letter to the police (Annexure-A to Annexure-P/4) that he had consented for the birth of a child after knowing that the wife petitioner was suffering from the disease Chlamydia and Liver Bed Adhesion and upon the assurance by the doctor that the child to be born would not contract the said disease.

The aforesaid background facts lead to the irresistible conclusion that the fact of wife petitioner suffering from alleged disease was admittedly known to the husband-respondent who even thereafter had consented for the birth of a child on the basis of the medical assurance that the child would not be infected by the said



diseases. The fact is also admitted that after the birth of the child on 14.04.2014 the husband-respondent and wife-petitioner lived together as husband and wife till 20.04.2015. However, the respondent-husband by way of amendment has sought to incorporate the relief of annulment of marriage on ground of fraud under Section 12(1) (c) of the Hindu Marriage Act 1955 as the main relief alleging that the fact of diseases was concealed from him by the wife-petitioner and he would not have proceeded to marry with wife-petitioner if these facts would have been known to him.

The relevant provisions of Section 12(1) (c) alongwith Section 12(2)(a) of the Hindu Marriage Act 1955, in the present context, read as follows:

12. Voidable marriages.-(1) Any marriage solemnized, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:

(a)XX

(b)XX

(c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner was required under Section 5 as it stood immediately before the commencement of the Child Marriage



Restraint (Amendment) Act, 1978 (2 of 1978), the consent of such guardian was obtained by force or by fraud as to the nature of the ceremony or as to any material fact of circumstance concerning the respondent; or

(2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage-

(a) on the ground specified in clause (c) of sub section (1) shall be entertained if-

(i) the petition is presented more than one year after the force had ceased to operate or, as the case may be , the fraud had been discovered; or

(ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be , the fraud had been discovered;

The postulates contained in the aforesaid provisions clearly create a statutory bar against entertaining a petition for annulling the marriage on the ground that the consent of the petitioner was obtained by fraud, after one year when the fraud had been discovered or if the parties to the marriage lived as husband and wife after the discovery of the fraud. The fraud as alleged by the



husband respondent, as evident from the proposed paragraph 36(a) to 36(e), in a nutshell, is that the wife-petitioner was suffering from the diseases mentioned in those paragraphs but she concealed the said fact from the husband respondent inducing him to marry her. However, from the statements made by the husband respondent in his pleading as well as in his other documents on record whose veracity has significantly been not denied, it is manifest that the husband-respondent had the knowledge of the said disease suffered by the wife-petitioner when he gave his consent to the initiation of the process for birth of a child only after having been medically assured that the child to be born would not carry the infection from those diseases. The said child took birth on 14.04.2014 and even thereafter the husband-respondent and the wife-petitioner lived together as husband and wife till alleged desertion on 20.04.2015. As these statements are manifest from the pleadings and the documents of the husband-respondent himself they no longer remain disputed questions of facts. These facts are clearly admissions in pleadings and the admitted document on record which are fully binding upon the husband-respondent and constituting a waiver of proof as laid down by the Apex Court in **Nagindas Ramdas Vs. Dalpatram Echharam, 1974 (1) SCC 242**. This factual backdrop therefore leaves no room for doubt that the leave for amendments as prayed, if allowed, would



take away the legal right which has accrued to the wife-petitioner by virtue of Section 12 (2) (a) of the Hindu Marriage Act, 1955. The learned court below while passing the impugned order has definitely ignored this aspect of the matter while allowing the amendments introducing the relief for annulment of marriage and incorporating the facts of fraud in the main petition of the matrimonial case. This Court thus holds that the proposed amendment for incorporating the relief of annulment of marriage on ground of fraud cannot be allowed in view of Section 12(2)(a) of Hindu Marriage Act in the facts and circumstances of the case.

Examining this matter from another angle also, it has been earlier discussed that the averments in the main petition do not at all carry even an iota of allegation of fraud which is sought to be introduced by the statements made in the proposed paragraph 36(a) to 36(e). In the **Municipal Corporation of Greater Mombay Vs. Lala Pancham , AIR 1965 SC 1008**, a five Judge Bench of the Apex court has overturned the order allowing the amendment in the plaint introducing the allegations of fraud for the first time , holding as follows:

.....
.....

There is, however, another ground and a



stronger one which impels us to hold that the amendment should never have been allowed. That ground is that the plaintiffs are now making out a case of fraud for which there is not the slightest basis in the plaint as it originally stood. The mere use of the word mala fide in the plaint cannot afford any basis for permitting an amendment....”

In the present context it would be further fruitful to take into notice the observations by a three Judge Bench of this Court in **A.K.Gupta & Sons Vs. Damodar Valley Corporation , 1967 SC 96** wherein their lordships have clarified the meaning of the expression ‘cause of action’ while considering the prayer for amendment in plaint. It has been spelt out as follows:

“7. It is not in dispute that at the date of the application for amendment, a suit for a money claim under the contract was barred. The general rule, no doubt, is that a party is not allowed by amendment to set up a new case or a new cause of action particularly when a suit on the new case or cause of action is barred: Weldon v. Neale (19 QBD 394). But it is also



well recognised that where the amendment does not constitute the addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation....”.

“9. The expression “cause of action” in the present context does not mean “every fact which it is material to be proved to entitle the plaintiff to succeed” as was said in Cooke v. Gill [(1873) LR 8 CP 107, 116] in a different context, for if it were so, no material fact could ever be amended or added and, of course, no one would want to change or add an immaterial allegation by amendment. That expression for the present purpose only means, a new claim made on a new basis constituted by new facts. Such a view was taken in Robinson v. Unicos Property Corporation Ltd. [(1962) 2 All ER 24] and it seems to us to be the only possible view to take. Any other view would



make the rule futile. The words “new case” have been understood to mean “new set of ideas”: Dornan v. J.W. Ellis & Co. Ltd. [(1962) 1 All ER 303]. This also seems to us to be a reasonable view to take. No amendment will be allowed to introduce a new set of ideas to the prejudice of any right acquired by any party by lapse of time.”

“28.....
.....

The Court has to decide the suit instituted before it and with respect to the controversies raised in it. It follows that the amendments to be allowed relate to such matters which, due to bad drafting of the plaint, could not be clearly and precisely expressed, though the parties did really intend to have those matters determined by the Court. The object of the amendment of the pleadings is to clarify the pleadings for bringing into prominence the real controversy between the parties and not for helping a party



by making such amendments which be beneficial to him in connection with some dispute between the parties a dispute which has not been really taken to the Court for decision and which the parties did not really intend to be decided in that suit. This seems to me to be the real basis for an order of the Court in connection with such amendments sought by a party in its pleadings as would raise a claim which has become time-barred...”

(emphasis supplied)

The above dictum has been succinctly reiterated in ***B.K.Narayana Pillai Vs. Parameswaran Pillai, 2000 (1) SCC 712*** as follows:

“4.....
.....

All amendments of the pleadings should be allowed which are necessary for determination of the real controversies in the suit provided the proposed amendment does not alter or substitute a new cause of action on the basis of which the original lis was raised or defence



taken.....”

From the aforesaid authoritative pronouncement of law, it is discernible that the amendment in the pleading seeking to introduce new set of ideas and new cause of action alongwith entirely new relief with definite deviation from the earlier pleading and the relief cannot be allowed. In the present case, it is manifest that by the proposed amendments the husband respondent has prayed to make the relief for grant of a decree of annulment of marriage as the main relief in the matrimonial case and the relief for grant of a decree of divorce has been sought to be made the alternative relief. Apparently the relief for annulment of marriage and the relief for a decree of divorce are inconsistent reliefs the later presupposing a valid and subsisting marriage. As held by the apex court in ***Sampatth Kumar Vs. Ayyakannu and Anr*** ,2002 (7) SCC 559 and reiterated in ***Alkapuri Cooperative Housing Society Ltd Vs. Jayantibhai Naginbhai***, AIR 2009 SC 1948 the change of the basic structure of the suit by amendment is impermissible. Evincibly, in the facts of the present case, the nature, scope and cause of action of the matrimonial case as instituted would be changed by the proposed amendments. None of the authorities, relied upon on behalf of the husband-respondent hold differently and therefore the conclusion is inevitable that the amendments as prayed cannot be legally permitted.



The challenge to the legal sustainability of the impugned order has also been resisted by learned counsel for the husband-respondent proponing a contention that as the present amendments have been sought in the matrimonial case at the pre-trial stage when the amendments in the pleadings should be liberally allowed, no interference is called for. In the first blush, this submission is impressive. However, its potentiality apparently has faded away after the order by the Hon'ble Supreme Court in the matter. From the first paragraph of the order of the Hon'ble Supreme Court dated 25.11.2016 (Annexure P/2) in Transfer Petition (civil) 1988/2015, it is evident that though the husband petitioner appeared in the proceeding before the Hon'ble Supreme Court but did not disclose before the Hon'ble Court the fact of pending petition for amendment seeking to substantially change the nature of the proceeding by praying mainly for a decree of annulment of marriage and alternatively praying for a decree of divorce. The Hon'ble Supreme Court has, in fact, passed the order and direction taking the proceeding to be under Section 13 of the Hindu Marriage Act seeking divorce. The prayer for modification of the said order as made by the husband respondent has also been dismissed by the apex court on 28.02.2017. It is not the submission on behalf of the husband respondent before this Court that the husband respondent has at any



stage informed the Hon'ble Supreme Court regarding the proposed change of the nature of the proceeding by seeking amendment. It has been strongly contended on behalf of the wife petitioner that the husband-respondent is bent upon to avoid the determination of the dispute within the time frame fixed by the Hon'ble Supreme Court, and the fact has been highlighted that another petition for amendment has also been filed by the husband respondent on 18.02.2017 as well as a petition under Section 26 of the Hindu Marriage Act. It has also been submitted that even though by order dated 20.2.2017 while issuing notice in the matter, this Court has only stayed the operation of the impugned order dated 09.02.2017 and not the further proceeding in the court below but the husband-respondent, who is petitioner in the Matrimonial Case No.43 of 2017 in the court below, has filed petition seeking adjournment on 04.03.2017 as well as 09.03.2017 even though the wife petitioner who is opposite party in the said matrimonial case has already filed her written statement and was personally present on those dates to participate in the proceeding and has also insisted upon for examination of the husband-respondent in the proceeding. It has also been pointed out on behalf of the wife-petitioner that the husband-respondent has so far failed to examine himself or any witness on his behalf in the proceeding even in face of the order of the Hon'ble Supreme Court fixing 31.03.2017 by which



the proceeding is to be finally disposed of.

The learned counsel appearing for the husband respondent however has refuted the assertions made on behalf of the wife petitioner and has submitted that the respondent husband is cooperating in the disposal of the proceeding in the court below in accordance with law.

It is explicit from the order dated 25.11.2016 (Annexure-P/2) that the Hon'ble Supreme Court, in no uncertain terms, has directed for the disposal of the matrimonial case seeking divorce (HMA No. 834 of 2015 now renumbered as Matrimonial Case No. 43 of 2017) by the end of March 2017. The prayer for modification of the said order, as prayed by the husband-respondent, has also been rejected. The non-disclosure of the fact before the Hon'ble Supreme Court regarding the proposed amendments changing the nature, scope and cause of action of the matrimonial proceeding and the direction by the Hon'ble Supreme Court to dispose of the proceeding by the end of March 2017, when considered together, dilute the substance of the submission that the amendments of pleadings at pre-trial stage of the proceeding should be liberally allowed as the attempt, in this manner, to overreach the order and direction of the Hon'ble Supreme Court cannot be ruled out.

For the aforesaid premised reasons and



discussions, this Court holds that the learned court below has committed illegality and material irregularity in allowing the prayer for amendment by the husband respondent herein (petitioner in matrimonial case no.43/2017) as made in his petition dated 05.01.2016.

This application is accordingly allowed and the impugned order is quashed. The petition dated 05.01.2016 for amendment is, accordingly, rejected. The learned court of Principal Judge, Family Court, Patna is directed to dispose of the Matrimonial Case No. 43/2017 in accordance with the direction of the Hon'ble Supreme Court.

Let this order be communicated to the court of Principal Judge, Family Court, Patna immediately.

(V. Nath, J)

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