

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.404 of 2017

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Smita Dutta Wife of Rahul Ranjan resident of C/304, Charminar Apartment,
Road No. 12, Rajendra Nagar, Police Station - Kadam Kuan, District -
Patna.

..... Opposite party

.... Petitioner

Versus

Rahul Ranjan son of Sri Sajjan Kumar Hisaria resident of 503/4, Abhishek
Plaza, Exhibition Road, Police Station - Gandhi Maidan, District - Patna.

..... Petitioner

.... Respondent

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Appearance :

For the Appellant/s : Mr. Angad Kunwar

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL ORDER

2 05-05-2017

Heard learned Counsel for the petitioner.

The wife is the petitioner in this petition under Article 227 of the Constitution of India and has challenged the impugned order by which the learned Court below has allowed the prayer for amendment in the main petition of the matrimonial case filed seeking divorce.

The learned Counsel for the petitioner has submitted that by the aforesaid amendment the husband-petitioner has sought to add altogether 17 paragraphs in his petition and thus has changed his entire case. By placing the proposed amendments (Annexure 2), the learned Counsel for the petitioner has tried to persuade this Court to take a view that the amendments are in the nature of overhauling the main petition which cannot be allowed. It has also been contended that in view of the provisions as contained in the amended Order 6 Rule 17 CPC the amendment could not have been allowed once after the trial has commenced.

After considering the submissions and perusal of the



materials on record including the impugned order, it is limpid that the matrimonial proceeding has been filed by the husband-respondent seeking a decree for divorce against the wife-petitioner. Originally the husband-petitioner has stated in the petition, as submitted by the learned Counsel for the petitioner, that it is due to adultery and other reasons that the divorce has been sought. However, it appears from the proposed amendments that by those amendments the petitioner seeks to add certain more grounds in the name of subsequent development as well as other facts in order to substantiate his case of cruelty against the petitioner. The fact is apparent from the impugned order that after framing of issues one witness has been examined on behalf of the husband-respondent, at which stage the prayer for amendment has been sought.

In view of the provisions of the Family Courts Act the strict procedure as envisaged in the Code of Civil Procedure is not applicable in proceedings under the said Act and the Family Court is at liberty to mend the procedure in accordance with law.

In the present case, after considering the facts and circumstances the Family Court has come to the conclusion that the proposed amendments are fit to be allowed. The reason assigned by the learned court below does not appear to be arbitrary or perverse. In this back drop, this Court is not inclined to invoke the jurisdiction under Article 227 of the Constitution of India.

This application is accordingly dismissed.

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(V. Nath, J.)

