

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 177/2017

(MAYA @ MAYAWATI PAWAN CHOKANDRE **VERSUS** PAWAN MUKUNDRAO CHOKANDRE)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. A.B.Ramteke, Advocate h/f Mr. G.M.Bagde, counsel for the petitioner.
 Mr. D. Rupnarayan, counsel for the respondent.

CORAM : REVATI MOHITE DERE, J.

DATE : DECEMBER 14, 2017.

Heard learned counsel for the parties.

By this petition, the petitioner has impugned the order dated 21.10.2016 passed by the learned Hon'ble Principal Judge Family Court, Nagpur, by which the petitioner's application (Exhibit 20) seeking permission to amend the main petition came to be rejected.

Learned counsel for the petitioner submitted that the petitioner be given an opportunity to include the proposed amendment in the main petition, in the interest of justice.

Learned counsel for the respondent opposes the petition. He submits that no interference is warranted in the impugned order.

Perused the papers as well as the impugned order. The petitioner has filed Petition No.E-426/2014 in the Family Court, Nagpur seeking maintenance. It appears that thereafter in October-2015, the petitioner sought amendment of paragraph 9 of the main petition (Exhibit 17) which came to be allowed. It appears that thereafter, issues were framed in the said case on 26.01.2016.. Thereafter, the learned Principal Judge, Family Court, Nagpur, *vide* common order, directed recording of common evidence in both the petitions,

i.e. Petition No.E-426/2014 filed by the petitioner seeking maintenance from the respondent under Section 125 of Cr.P.C. for herself and minor daughter as well as Petition No.A-1003/2014 filed by the respondent-husband under Section 10 of the Indian Divorce Act, for dissolution of marriage. The learned Principal Judge, Family Court, Nagpur directed that since Petition No.E-426/2014 was filed prior in time, the wife would adduce her evidence first. It appears that thereafter, the petitioner filed an application dated 07.09.2016 and sought amendment on the ground that certain facts, i.e. what compelled the petitioner to leave the matrimonial home were not mentioned in the petition. The learned Principal Judge, Family Court, Nagpur, after hearing the parties, rejected the said application on the ground that the trial had commenced, inasmuch as, the issues were framed. The learned Principal Judge, Family Court, Nagpur also observed that earlier an amendment application was allowed and no reason was assigned in the present application as to why, the petitioner had not pleaded or sought amendment either in her main petition at the time of filing of the earlier amendment application, as the said facts were well within her knowledge. The impugned order dated 21.10.2016 by which the petitioner's application for proposed amendment was rejected, can neither be said to be perverse nor unsustainable. Hence, no interference is warranted in writ jurisdiction.

The petition is dismissed on the aforesaid terms.

JUDGE