

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.3487 of 2016

Date of decision:31.10.2018

Anand Prakash Sinha

... Petitioner

Vs.

Kanupriya Priyadarshani

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arnav K. Sood, Advocate for
Mr. Shubham Bhalla, Advocate
for the petitioner.

Mr. Jaivir Singh Chandail, Advocate
for the respondent.

AMIT RAWAL J.

The present revision petition is directed against the impugned order dated 06.04.2016 (Annexure P-1), whereby, an application for amendment of the divorce petition by adding the ground of adultery, has been dismissed.

Learned counsel appearing on behalf of the petitioner submitted that vide Annexure P-2, divorce petition dated 17.03.2015 was filed before the Family Court at Gurgaon. The respondent-wife lodged an FIR under Section 498A, 323 and 34 IPC and also filed a case under Section 12 of the Domestic Violence Act, 2005. In paragraph 43 of the divorce petition, an allegation with regard to affair of respondent-wife with one Udit Mittal was specifically averred. However, due to inadvertance and lack of proper legal advice, the relief seeking dissolution of marriage on the ground of adultery

was not sought. In this regard, an application dated 20.01.2016 (Annexure P-4) for amendment of divorce petition was submitted but the same after contest has erroneously been dismissed. No harm and prejudice would be caused to other side in case the parties are allowed to lead evidence as the other party would have a right to rebut the same. There is already sufficient material to raise the ground of adultery.

Per contra, learned counsel appearing on behalf of the respondent submitted that it is a new cause of action which is hit by Order 2 Rule 2 of Code of Civil Procedure, therefore, the same cannot be permitted to be added. The averments made in paragraph 43 are not only evasive but vague and therefore, cannot be said to be construing the grounds of adultery. It is an attempt to tarnish the image of respondent-wife and cannot be permitted to be added at the drop of the hat and thus, urged this Court for dismissal of the petition

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Sood. For the sake of brevity, paragraph 43 of the divorce petition is extracted herein below:-

“43 That in Dec.2011 the respondent got in touch with one Udit Mittal who is the founder and managing director of Unison International an executive search agency based out of Gurgaon. By Mar-2012 her affair with Mr. Mittal had started. The petitioner discovered a very vulgar and intimate facebook chat of the respondent with Mr. Mittal which is attached as

Annexure P/20. No husband can reasonably be expected to continue living with a wife who is chatting in this vulgar and intimate fashion with some other man. In 2012 with the help and supports of her paramour, Mr. Mittal, the respondent formed a company by the name of profiles which shares office space with Unison International.”

It is in these circumstances, the petitioner under the legal advice wanted to add the ground of adultery by adding the aforementioned paragraph in the divorce petition. The other party would have sufficient opportunities to rebut the same through pleadings as well as evidence and this would enable the Court to decide the controversy on preponderance of the evidence.

Accordingly, the impugned order is hereby set aside and the application for amendment is allowed subject to costs of ₹5,000/- which is a condition precedent.

Revision petition stands allowed.

(AMIT RAWAL)
JUDGE

October 31, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No