

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 4947-2017 (O&M)
Date of decision: 12.03.2018

Vivek Sharma

.....Petitioner

versus

Vani Sharma

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Harsh Goyal, Advocate for the petitioner
Mr.Rajesh Gupta, Advocate for the respondent

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the order dated 11.7.2017 (Annexure P15) passed by learned Additional District Judge, Amritsar, vide which, an application filed under Order VI Rule 17 read with Section 151 CPC 1908 filed by the petitioner for amendment of the divorce petition, when the case was at the stage of the evidence of the petitioner, was dismissed.

I have heard learned counsel for both the parties and have also carefully gone through the file.

It comes out that the petitioner -husband has filed a petition under Section 13 of the Hindu Marriage Act, 1955 on 22.12.2015. When the case was at the stage of the evidence, he filed an application for amendment of the petition under the wrong provisions. The application was dismissed by the trial Court. However, this Court, vide order dated 26.5.2017 passed in CR No.3852 of 2017 allowed the petitioner to withdraw the said application and filed a fresh one by invoking the provisions of

Order VI Rule 17 CPC. It was further directed that if such application is filed, it will be decided purely on merits. Such application was filed and has been dismissed vide impugned order.

Perusal of the application (Annexure P14) shows that by way of amendment, petitioner wants to add para nos.6A and 6-B, wherein he wants to allege that on 13.1.2006, respondent had demanded unusual amount of money and valuable things, luxury and Jewellery on the occasion of festival. Further in para 6-B, he stated to be added on 2.11.2006, respondent wife demanded Rs.50,000/- for purchase of cloths and Jewellery and when the petitioner refused and she physically attacked the petitioner and abused mother of the petitioner.

I am of the view that these facts pertain to 9 years before the filing of the petition and were very much within the knowledge of the petitioner when he filed the petition. Initially, application for amendment was filed after issues were already framed and the evidence of the petitioner was going on. Under the amended provisions of Order VI Rule 17 CPC, the facts which were within the knowledge of the petitioner, could not be allowed to be added by way of amendment after the trial has started. In this case, trial had started. The petitioner has alleged several acts of cruelty. He wants to add more facts, which were within his knowledge when the petition was filed. Hence, amendment was rightly refused by the trial Court.

The present revision petition stands dismissed accordingly.

Since the main case has been dismissed, therefore, the pending CM, if any, also stands disposed of.

12.03.2018

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No