

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Revision No.71 of 2019
(Harsh @ Babu s/o Gurumukhdas Sachdev .vs. Kavitatevi wd/o
Gurumukhdas Sachdev)

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

Mr. S.G. Karmarkar, Advocate for Applicant
Mr. P.S. Tidke, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 1, 2019.

By this revision application, the applicant is challenging order dated 12.03.2019 passed by the Court below, rejecting an application seeking amendment of written statement.

2. The original proceeding in the present case before the Court below was initiated by the non-applicant under Section 125 of the Code of Criminal Procedure, seeking maintenance from the applicant herein. In the said application, an order granting the interim maintenance was passed to the effect that the applicant shall pay amount of Rs.20,000/- per month to the non-applicant herein.

3. During the course of proceedings when the evidence of the non-applicant was already over, the applicant herein moved the said application before Court below seeking amendment of his original written statement. The said proposed amendment was opposed

by the non-applicant and it was pointed out that the applicant had also defaulted in making the payment of interim maintenance amount.

4. By the impugned order, the Court below found that the applicant proposed to amend his written statement to incorporate certain pleadings pertaining to a will, which was already subject matter of challenge in a Civil Court. It was also noted that the applicant had already asked various questions to the non-applicant on matters which were proposed by way of amendment in the written statement. After noting these facts, the Court below rejected the application for amendment filed by the applicant herein.

5. A perusal of the impugned order and the application for the proposed amendment, shows that the approach adopted by the Court below cannot be said to be erroneous. The stage at which the proceedings are today demonstrate that the evidence of the non-applicant is already over and she has been cross-examined extensively on behalf of the applicant. It is found that such cross-examination is already on certain aspects that are sought to be incorporated by way of amendment. A perusal of the proposed amendment shows that copious references are made to an alleged will, which is admittedly already subject matter of civil litigation.

6. In these circumstances, it cannot be said that Court below has committed any error in rejecting the

amendment application and, therefore, this revision application deserves to be dismissed.

7. In pursuance of order dated 19.06.2019 passed by this Court, on instructions, the learned counsel for the applicant has submitted that the applicant has deposited the amount to the tune of Rs.2,16,000/- towards arrears of maintenance, which is seriously disputed on behalf of the non-applicant and it is stated that only an amount of Rs.1,70,000/- has been in fact deposited. Considering the aforesaid disputed figures, stated on instructions by the learned counsel for the rival parties, it would be appropriate that the Court below examines the said aspect. If the applicant is found to be in arrears of payment of amount towards interim maintenance, the same shall be paid to the non-applicant within a period of five weeks from today.

8. In view of the above, the present revision application is found to be without any merit and it is dismissed.

JUDGE

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