

CR No.3373 of 2018

Date of Decision:22.07.2019

TAJINDER PAL SINGH BEDI

...Petitioner

Versus

JAGJEET KAUR @ PREETI

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Divanshu Jain, Advocate
for the petitioner.

None for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 08.05.2018 passed by the Additional District Judge, Yamuna Nagar at Jagadhari (for short-the Trial Court) dismissing an application filed by the petitioner under Order 6 Rule 17 CPC seeking therein to amend his divorce petition.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition, are that the petitioner filed a petition under Section 13 (1) (ia) of the Hindu Marriage Act, 1955 seeking therein divorce from the respondent.

On being put to notice, the respondent appeared before the Trial Court and filed her written statement. On the dispute between the parties, issues were framed by the Trial Court. Thereafter, soon after the

petitioner filed his affidavit in his examination-in-chief, an application was filed by him seeking therein to amend his divorce petition. The Trial Court being of the view that the amendments sought by the petitioner were not necessary and essential for the disposal of his petition as also that such amendments were hit by the proviso to Order 6 Rule 17 CPC dismissed the petitioner's application through the order under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

In spite of service none has put in appearance on behalf of the respondent.

Through the application filed by the petitioner under Order 6 Rule 17 of CPC, the following amendments were sought by him:-

i) That the petitioner wants to add the following lines in existing para No.19 in the end after the word “separate accommodation”. It is pertinent to mention here that the respondent used to call her parents and they have also supported to her in place of sought out the confusions of their daughter.

ii) That the petitioner further wants to introduced new paras No.19-A in the following manner:-

“19-A That the petitioner moved an application to SHO, P.S. Tilak Nagar, New Delhi on 02.10.2007 and the police assured the petitioner for help after inquiry in the locality of the petitioner in respect of the facts mentioned in the complaint and the

police also suggested to keep in touch in respect of all developments in the matter and in case respondent did not turned up. It may also be mentioned here that the brother of the respondent also threatened to the petitioner on phone call that around 25 people will be reached at his house to teach the lesson to the petitioner. The petitioner informed to the SHO P.S. Tilak Nagar, New Delhi on 18.10.2007 again moving the application in respect of said threat of the family members of the respondent as the petitioner as well as his family members felt danger of life from the family members of the respondent”.

iii) That the petitioner wants to mentioned the following word “September 2007” in place of word “October 2007” in first line of existing para No.20 of the petition.

iv) That the petitioner further wants to introduce new paras No.39-A and 39-B after the para No.39 of the Original Petition in the following manner.

39-A That is also significant to be mentioned here that after a long period of about 6 months from the date institution of the Original Petition by the petitioner against the respondent U/s 13 of H.M. Act, 1955, the respondent has lodged a criminal complaint on Case Crime No.316 dated

21.04.2015 U/s-406/498A/323/504/506/34 IPC in Police Station City Yamunanagar on false and frivolous grounds, as a counter blast against the petitioner and his innocent family members.

39-B That without prejudice it is further submitted that the respondent has also filed complaint under section 12, 18, 19, 20, 21, 22 of Protection of Women from Domestic Violence Act, 2005 P.S. City Yamunanagar before the Hon'ble Chief Judicial Magistrate, Yamunanagar at Jagadhari on the basis of false and frivolous grounds only to harass the petitioner as well as innocent family members of the petitioner. The said F.I.R and the alleged complaints are nothing but misuse of the legal process and abused to process of law by the respondent.”

Thus, four amendments were sought by the petitioner and they are being dealt with one by one.

So far as the first amendment is concerned, after para 19 of his divorce petition, the petitioner sought to add an averment to the effect that the respondent used to call her parents and that they also supported her rather than sorting out her confusions.

The above averment is absolutely vague as it does not refer to the time and date as to when the respondent allegedly called her parents. Such averment is also apparently of the period prior to the date of the filing

of the petition and was thus within the petitioner's knowledge at the time of filing of his divorce petition. Thus, the same cannot be permitted.

The second amendment sought to be made by the petitioner is to introduce pleadings with regard to filing of an application dated 02.10.2007 allegedly made by the petitioner to the SHO, Police Station Tilak Nagar, New Delhi as also the response by the police to such application. Since such event is of the year 2007 and pertains to making of an application by the petitioner himself, obviously the same was within his knowledge at the time of filing of his divorce petition in the year 2014. No averment has been made by the petitioner as to why such an averment was not included by him at the time of filing of his divorce petition except to say that it was an inadvertent lapse on his part. The above explanation given by the petitioner is not worthy of acceptance. The same is also hit by the proviso to Order 6 Rule 17 CPC. Thus, such amendment cannot be permitted.

The third amendment sought by the petitioner is only to replace the month of 'October' with the month of 'September' as referred to in para 20 of the petition. Such mistake is apparently a typographical error and therefore, the same is permitted.

The last amendment is to introduce paragraph 39A & 39B in the petition to make averments therein with regard to criminal proceedings as also the proceedings initiated by the respondent against the petitioner under the criminal law as also the Domestic Violence Act, 2005. These events are found to have taken place after the issues were framed by the Trial Court. These are subsequent events and are also considered to be

relevant and are therefore permitted.

In view of the above, the impugned order is set aside and amendments sought by the petitioner are permitted to the extent mentioned above.

The petition is disposed of in the above terms.

July 22, 2019

(DEEPAK SIBAL)
JUDGE

Jyoti-11 Whether speaking/reasoned Yes/No Whether Reportable Yes/No