

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-2030-2014 (O&M)

Reserved on: 24.03.2023

Date of pronouncement: 28.03.2023

Anita Dhingra

...Petitioner

Versus

Sham Sunder

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.S. Behl, Advocate and
Mr. Gaurav Vir Singh Behl, Advocate and
Dr. Ajaymeet Singh, Advocate for the petitioner.

Mr. Yogesh Goel, Advocate and
Mr. Rajan Diwan, Advocate for the respondent.

H.S. MADAAN, J.

Briefly stated facts of the case are that in a divorce petition brought by petitioner Sham Sunder against his wife Smt. Anita Dhingra on the grounds of cruelty and desertion which has been pending in the Court of Addl. District Judge, Ludhiana during the course of proceedings, the petitioner had filed an application for amendment of the petition so as to incorporate instances of cruelty in the said petition, which according to him could not be included in the petition earlier.

The application was resisted by the respondent vehemently. However, vide impugned order dated 07.03.2014, the application was accepted. The reasoning given for allowing the application is contained in para No.4 of the order which for ready reference is being reproduced as

under:-

“4. A perusal of the record reveals that the petition is pending since 15.10.2009 and the instant application has been filed when the case is covered under “Action Plan” and is required to be disposed of in an expeditious manner. However the paramount consideration while dealing with such an application is the nature of the amendment and not the stage of the case at the time of filing the application. Under the attending circumstances of the case the proposed amendment appears to be necessary for the just decision of the case. Therefore the application is allowed subject to payment of Rs.20,000/ as costs out of which Rs.5000/- shall be payable to District Legal Authorities and the remaining amount shall be payable to the respondent; and further subject to the condition that from this stage onwards this oldest pending divorce petition may be taken up on day to day basis, and therefore petitioner/applicant shall have to proceed with the same without seeking any unnecessary adjournments during subsequent stage of its trial. Subject to the payment of the above costs and the aforesaid conditions. application is allowed.”

Feeling aggrieved by the impugned order, the respondent wife has preferred a revision petition before this Court, notice of which was given to Sham Sunder husband, who has appeared through counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the revision petition. By way of amendment, the petitioner-husband has given the instances of cruelty. He had already taken this ground in the original petition. The result of the amendment is to give details of the instances which according to the petitioner constitute act of cruelty by respondent wife towards the petitioner. The amendment is clarificatory in nature. It does

not result in change of nature and character of the pleadings. Learned trial Court in the impugned order itself has categorically observed that the proposed amendment appears to be necessary for just decision of the case, therefore, the same has been allowed subject to payment of Rs.20.000/- as costs. Keeping in view the fact that the divorce petition is quite old and it has been ordered to be taken up on day to day basis, therefore, the order passed is quite balanced and does not call for any interference.

As far as the judgments referred to by learned counsel for the petitioner i.e. Rajesh Kumar Aggarwal & Ors. Vs K.K. Modi & Ors., 2006 (3) Civil Court Cases 57 (SC) and B.K. N. Pillai Vs. P. Pillai & Anr. 2000(3) Civil Court Cases, 165 (SC), are concerned, those are not applicable due to different facts and circumstances and the context in which such observations had been made. Therefore, the revision petition is doomed for failure and the same is dismissed accordingly.

Resultantly, the interim order passed in the revision petition on 19.03.2014 staying further proceedings before the trial Court comes to an end.

28.03.2023

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No