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

CR-5454-2024

Date of decision: 20.09.2024

Pankaj Kumar

...Petitioner

Versus

Manjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ranjit S. Bajaj, Advocate and
Mr. Devinder Sharma, Advocate and
Mr. Sidakjit S. Bajaj, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 25.07.2024 (Annexure P-5) passed by the trial Court in COMA-447-2021 dated 16.06.2021 titled as “Manjit Kaur and another Vs. Pankaj Kumar and others”, whereby an application under Order 6 Rule 17 CPC for amendment of the complaint/petition filed by respondent Nos.1 and 2 has been allowed.

2. Brief facts of the present case are that respondent No.1 who is the wife of the petitioner and respondent No.2 who is the minor son of the petitioner had filed an application (Annexure P-1) under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter to be referred as “the Domestic Violence Act”) against the present petitioner and



other persons. In the said application, although detailed averments with respect to the details of the marriage and other relevant factors were made but apparently on account of an inadvertent mistake, the columns for monetary reliefs which were to be filled up were inadvertently left blank. A reply (Annexure P-2) was filed to the said complaint/application (Annexure P-1).

3. On realising the inadvertent mistake made on account of an oversight, an amendment application dated 23.01.2024 (Annexure P-3) was filed in which it was stated that inadvertently and due to an oversight, monetary reliefs in para 3, sub para (iii), sub para (iv) and the other sub paras under Section 20 were left blank, even though they were required to be filled up and accordingly, the said blanks were filled up. A reply (Annexure P-4) was filed to the said application (Annexure P-3) and the trial Court vide order dated 25.07.2024 (Annexure P-5) had allowed the said application (Annexure P-3) subject to the payment of costs of Rs.500/-. While allowing the said application, the trial Court had observed that in the complaint under the Domestic Violence Act, the allegations of cruelty and domestic violence were detailed but since the complaint was filed according to the proforma prescribed for filing of an application under Section 12 of the Domestic Violence Act, the various headings under which monetary relief was being sought was mentioned in the complaint but however, the amounts under the various heads were not specified and all the said entries were left blank and the explanation offered that the same was due to inadvertence and oversight was convincing as otherwise there was no reason for the complainant/respondent No.1 to not have



mentioned/specified the amounts claimed under different headings. It was observed that apparently it was on account of negligence of the counsel who had drafted the complaint that the said fields were left blank and that the complainant could not be penalized for the same. It was further observed that in effect filling in the blanks does not even constitute an amendment as the same is correction of a typographical/clerical error/omission and since the case was at the initial stage, thus, the said omission could be rectified. The sole argument raised on behalf of the petitioner to the effect that the appropriate course for the respondents/complainant was to withdraw the complaint and then file a fresh one was rejected by observing that sending the respondents/complainant back would not serve any purpose and would only amount to unnecessarily delaying the proceedings.

4. Learned counsel for the petitioner has submitted that the impugned order deserves to be set aside on three grounds. The first ground raised is that the application for amendment/correction of errors is not maintainable as the present case is under the Domestic Violence Act. The second argument raised is that even in case the amendment is to be allowed, then, the same could not be ordered to be retrospective but could only be ordered to be prospective. The third argument raised is the same as the one raised before the trial Court to the effect that in a situation where respondent No.1/complainant wants to fill in the blanks, respondent No.1/complainant should file a fresh complaint instead of moving an application for amendment.

5. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the arguments raised on behalf of the



petitioner are meritless and deserve to be dismissed.

6. Hon'ble the Supreme Court of India in case titled as **Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and another** reported as **2016 AIR Supreme Court 2519**, had observed that even while dealing with the provisions under the Domestic Violence Act, the Court has the power to allow the amendment of the complaint. It was further observed that if an amendment is necessary or is done to avoid multiplicity of litigation, then, the Court has the power to permit the said amendment and that it is settled law that procedure is the handmaid of justice and is to come to the aid of justice rather than defeating it. In the case before the Hon'ble Supreme Court of India, certain prayers were made in the original petition and the family members of the appellant therein had filed a petition under Section 482 of Cr.P.C. in the High Court for quashing of the proceedings in the domestic violence case and the said petition was allowed by the High Court vide order dated 17.04.2009 thereby quashing the domestic violence proceedings against the family members of the appellant therein on the ground that there were no specific allegations against them. It was thereafter that the complainant therein wanted to amend the prayer clause by incorporating more prayers, details of which were also given in the judgment of the Hon'ble Supreme Court. The said application was allowed by the trial Court in spite of the objections raised by the appellant therein that there was no power with the Court to allow the amendment of such a complaint which had been filed under the Code of Criminal Procedure, 1973. The High Court also upheld the order of the trial Court. Hon'ble the Supreme Court dismissed the SLP and upheld the order



of the trial Court as well as of the High Court affirming the said amendment. The provisions under the Domestic Violence Act were considered in detail in the said judgment and after considering the said provisions, the Hon'ble Supreme Court had observed that the Court while dealing with the case under the Domestic Violence Act, has the power to allow the amendment. Relevant portion of the said judgment is reproduced hereinbelow:-

“1 to 2. xxx xxx

3. The issue that arises for consideration in the instant case is whether a court dealing with the petition/complaint filed under the provisions of the Domestic Violence Act, 2005 (hereinafter referred to as 'the DV Act') has power to allow amendment to the petition/complaint originally filed. This issue has arisen in the petition/complaint filed by respondent no. 1/wife. Respondent No. 1 herein, who is the wife of the appellant, has filed a case against the appellant and his family members before the Court of IInd Additional Judicial First Class Magistrate, West Godavari, Eluru under Sections 9B & 37(2)(C) of the DV Act which is registered as Domestic Violence Case No. 20/2008. It may be mentioned here that the said petition now stands transferred to the Court of Judicial First Class Magistrate (Mobile Court), Eluru and has been renumbered as DV Case No. 29/2012. In this case, respondent no. 1 has leveled various allegations against the appellant and his family members inter alia alleging that the appellant and his family members used to harass her physically as well as mentally and by also demanding dowry. It is further alleged that she was driven out from her matrimonial home in the month of March, 2015 and initially she took shelter at her brother's house along with the children in Eluru. Thereafter, on the appellant tendering an apology to respondent no. 1 by coming



to Eluru they put up their family together in Gadam Ramakrishna's House at Ashok Nagar, Eluru, but the things did not change. The following prayers are made in the said petition:

- “a) to provide protection to the life and limb of the complainant in the hands of the respondents;
- b) to grant monthly maintenance of **Rs.5,000/- to the complainant and her children each towards her maintenance**, medicines etc. and her children education and maintenance;
- c) to grant such other relief or reliefs if the Hon'ble Court deems fit and proper in the circumstances of the case.

4. xxx xxx

5. On receiving notice in DV Petition, family members of the appellant filed a petition under [Section 482](#) Cr.P.C. in the High Court of Judicature at Hyderabad for the States of Telengana and Andhra Pradesh for quashing the proceedings in the said DV Petition. **This petition was allowed by the High Court vide order dated 17.04.2009 thereby quashing the domestic violence proceedings against the family members of the appellant on the ground that there was no specific allegations against them.** After the DV Petition was transferred to the Court of Judicial First Class Magistrate, Eluru, **respondent no. 1 filed an application seeking amendment of the petition. By way of the said amendment petition, respondent no. 1 wanted to amend the prayer clause by incorporating some more prayers, as is clear from the following amendment in this behalf which was sought by respondent no. 1:**

- a) To provide protection to life and limb of the complainant in the hands of the respondent.
- b) **To grant monthly maintenance of Rs. 15,000/- to the complainant and her 2nd child to their maintenance instead of Rs.5000/-**
- c) **Direct the respondent to return the Sridhana amount of**



Rs.3,00,000/- and 15 sovereigns of gold ornaments and other sari samanas and marriage batuvu presented to the respondent worth about 2 sovereigns wrist watch, 7 sovereign gold chain presented by the complainant and her parents.

*d) **Direct the respondent to pay the compensation of Rs.15 lakhs** to the complaint for subjecting the compliant to physical and mental harassments besides including acts of Domestic Violence.*

*e) **Direct the respondent to return the sari samans** and other goods like worth more than **Rs.10,00,000/-** as per the list annexed herewith.*

*f) **Direct the respondent to pay the cost of, litigation to the tune of Rs.25,000/-** so far spent by the complainant persuing her litigation.*

*g) **Direct the 1st respondent to provide separate residence by taking rent portion with monthly rent of Rs.10,000/-***

*h) **Directing the respondent to return the original study certificates, medical certificates, deposits certificates and receipts etc. in the prayer portion paragraphs the following amendment by deleting the prayer original para***

*b) **to grant monthly maintenance of Rs.5,000/- to the complainant and her children each towards her maintenance, medicines etc. and her children education and maintenance.***

6 to 16. xxx xxx

*17. **If the amendment becomes necessary in view of subsequent events [escalation of prices in the instant case] or to avoid multiplicity of litigation, Court will the have power to permit such an amendment. It is said that procedure is the handmaid of justice and is to come to the aid of the justice rather than defeating it. It is nobody's case that respondent no. 1 was not entitled to file another application claiming the reliefs which she sought to include***



in the pending application by way of amendment. If that be so, we see no reason, why the applicant be not allowed to incorporate this amendment in the pending application rather than filing a separate application.....

18 & 19. xxx xxxx

20. ***The reliefs that can be granted by the final order or an by interim order, have already been pointed out above wherein it is noticed that most of these reliefs are of civil nature. If the power to amend the complaint/application etc. is not read into the aforesaid provision, the very purpose which the Act attempts to sub-serve itself may be defeated in many cases.***

21 ***We, thus, are of the opinion that the amendment was rightly allowed by the Trial Court and there is no blemish in the impugned judgment of the High Court affirming the order of the Trial Court. This appeal is, thus, devoid of any merits and is, accordingly, dismissed with costs.”***

7. No law to the contrary has been cited. Thus, the first argument raised by learned counsel for the petitioner that the application is not maintainable is liable to be rejected. Even, the other arguments raised on behalf of the petitioner are meritless. In the case before the Hon’ble Supreme Court, as is apparent from the abovesaid judgment, the complainant therein had sought amendment and had added prayers and had even sought increase of the maintenance. In the present case, it is apparent that the complaint was filed according to the proforma and the various headings under which monetary relief was sought was mentioned but on account of an inadvertence, the amounts under the various heads were not mentioned. It had been rightly observed by the trial Court that the same was



an apparent oversight and there was no reason why the complainant should not be permitted to rectify the same and thus, the present case is a higher case on facts, inasmuch as, apparently omission on account of an oversight has been allowed to be rectified by the trial Court. The argument to the effect that respondent No.1/complainant should be made to file a fresh application is also liable to be rejected. Once the complainant is entitled to file a fresh case, then, in order to avoid multiplicity of litigation, an amendment can always be allowed as per settled law. The Hon'ble Supreme Court in the abovesaid judgment had also considered a similar argument and had observed that since, the complainant therein was entitled to file another complaint claiming the reliefs which are sought to be added by moving the application for amendment, thus, there was no reason as to why the complainant therein should not be allowed to incorporate the said reliefs by amendment in the pending complaint rather than filing a separate complaint.

8. On the aspect of the amendment to be considered prospectively, it would be relevant to note that as has been fairly admitted by learned counsel for the petitioner, no such objection was raised in the reply to the application for amendment, by the petitioner or even during the course of arguments before the trial Court. Moreover, as per settled law, an order allowing amendment in the pleadings would have the effect of the amended complaint/plaint replacing the original complaint/plaint. Furthermore, there is no reason as to why the monetary reliefs which have now been filled up by the respondent No.1 should not be permitted to be claimed by her from the date of the complaint, when the cause of action had arisen. Moreover, no law has



been cited by the learned counsel for the petitioner in support of his arguments.

9. Keeping in view the abovesaid facts and circumstances, the impugned order dated 25.07.2024 is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

20.09.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No