

**CRR 2032 of 2024**

Anima Rani Das  
Vs.  
Indranil Das & anr.

Adv. Sumanta Chakraborty

...for the petitioner.

Adv. Abhinaba Dan,  
Adv. Nitesh Samanta,

...for the op. no.1.

The petitioner is aggrieved by the judgment delivered by the learned Additional District & Sessions Judge, 4<sup>th</sup> Court, Tamluk, Purba Medinipur on 24<sup>th</sup> April, 2024 in Criminal Revision no. 7 of 2024 affirming the order passed by the learned Judicial Magistrate, 3<sup>rd</sup> Court, Tamluk in Misc. case no. 149 of 2018 on 5<sup>th</sup> January, 2024. By the said order the learned Magistrate has turned down the prayer of petitioner under Order VI Rule 17 of the Code of Civil Procedure.

Learned counsel for the petitioner submits that the petitioner filed two other cases under Section 9 of the Hindu Marriage Act and Sections 376/420 and other allied provisions of the Indian Penal Code before the appropriate forum. By judgment dated 18<sup>th</sup> April, 2024 in Sessions Trial 01(07) of 2019, the learned Additional District & Sessions Judge, 3<sup>rd</sup> Court, Tamluk found the petitioner not guilty of the offence punishable under Sections 376/420/493/496/406/384/506/34 of the Indian Penal Code and acquitted him accordingly. By a judgment delivered on 18<sup>th</sup> April, 2024 in MAT suit no. 26 of 2018, the learned Judge, Family Court, Tamluk dismissed the application of the petitioner under Section 9 of the Hindu Marriage Act. Both the judgments have been carried in appeals which are pending.

Learned counsel for the petitioner submits that it shall appear from the said judgments that the documents pertaining to the proposed amendment were before the learned Courts for consideration.

Placing reliance on the authorities in *Life Insurance Corporation of India vs. Sanjeev Builders Private Limited & anr.* reported in 2022 LiveLaw (SC) 729 and *Kunapareddy alias Nookala Shanka Balaji vs. Kunapareddy Swarna Kumari & anr.* reported in AIR 2016 SC 2519, learned counsel submits that the proposed amendment may be allowed since it is necessary for determining the real question in controversy between the parties. Also, easily curable legal infirmity can be cured by formal application for amendment.

Opposing the prayer, learned counsel for the opposite party submits that the application for amendment does not disclose the reason for delay in filing the application. Also, the proposed amendment is not relevant to the facts of the case and shall not help in adjudicating the present dispute between the parties.

I have considered the submission made on behalf of the parties and material on record.

It appears that the application under Section 12 of the Prevention of Women from Domestic Violence Act was filed by the petitioner on 5<sup>th</sup> April, 2018. It appears from the judgment impugned that dates were fixed by the learned Magistrate for examination of witnesses and the petitioner filed adjournment petitions at least on two occasions before coming up with the amendment application.

On perusal of the amendment application it appears that no reason has been assigned by the petitioner as to why she was unable to incorporate the proposed amendment in the application under

Section 12 of the Act though the amendment relates to incidents of 2016 and 2017. The amendment application discloses a casual approach whereby an amendment of the application is sought only on the ground that no new case shall be made out if the amendment is allowed and also, there shall not be any change in the nature of the case.

The learned Appellate Court has observed that the application has been made by the petitioner not for the purpose of proper adjudication of the present case but to take a cue from this case to facilitate the other cases pending before the appellate forum. Such fact has in fact been admitted by the petitioner.

On perusal of the amendment application, this Court is of the view that the proposed amendment is not relevant for the purpose of adjudicating the real question in controversy between the parties. The said amendment has been taken care of by the other forums in turning down the prayers of the petitioners.

In view of the above, I left with no other alternative, but to hold that the revisional application is devoid of any merit and is liable to be dismissed.

CRR 2032 of 2024 is dismissed.

Urgent certified website copy of this order, if applied for, be given to the parties, upon compliance with all requisite formalities.

**(Suvra Ghosh, J.)**