

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI*

Item No.60
04.09.2025
Court. No. 1
GB

CO 9 of 2025

Arindam Chakraborty
VS
Nabanita Barman (Chakraborty)

*Mr. Subhasish Misra,
Mr. Satyajit Paul*

... for the Petitioner.

Ms. Suman Sehanabis (Mondal)

... for the Opposite Party.

1. The prayer for amendment of the plaint in a suit for dissolution of marriage being Matrimonial Suit No.135 of 2021, which is pending in the court of the learned District Judge, Cooch Behar, was rejected by order dated October 5, 2024. The petitioner filed the application for amendment sometime in 2023, to bring on record certain incidents which took place in 2021, especially between October 11 to October 14, 2021. The suit is for divorce on various grounds, including cruelty. By the amendment application, certain averments were sought to be inserted as an elaboration of the instances of cruelty. The visit of the wife to the office of the husband, abuse over telephone, the statements made to certain media houses, misbehaviour etc. were sum and substance of such pleadings.

2. Mr. Sehanabis, learned advocate for the wife submits that the application for amendment was filed after the issues were framed. There was no explanation as to why there was a delay of almost two years in filing the amendment application, although the facts sought to be incorporated by way of an amendment were known to the husband all along.
3. Heard the parties. Paragraphs 8 to 16 of the plaint enumerate different instances of cruelty. However, by the amendment, the husband had tried to elaborate on the pleadings and add additional force to his line of attack in the plaint. The Court does not find that any new cause of action was being incorporated. The facts to be introduced are in sync with the line of pleadings already made in the plaint. There are neither contradictions nor retraction of admissions. The cause of action does not change. The evidence has not yet commenced. In any event, the merits of the facts to be introduced are subject to proof and while allowing an application for amendment, the court is not required to judge the correctness and the veracity of the statements.

4. Under such circumstances, although there is a delay, no substantial injustice will be caused to the wife, who can file an additional written statement, by dealing with the proposed amendment. However, due to the delay caused, the petitioner is directed to compensate the wife and pay cost of Rs.20,000/- to the wife. The amendment shall be allowed subject to payment of such cost. Payment of cost shall be made within two weeks from date. The amended plaint shall be accepted by the learned Trial Judge, upon being satisfied that the cost as directed above had been paid. The wife will be entitled to file her additional written statement within three weeks from receipt of the amended plaint. The learned court shall then proceed in accordance with law.
5. Accordingly, the revisional application is disposed of. The order impugned is set aside.
6. Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)