


MHNG080013522020 	<u>Cri.M.A.No.564/2020</u> <u>Priti Vs. Shailesh & ors.</u>
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ORDER (BELOW EXH.42)
(Passed on 03/12/2025)

The non-applicant has filed present application under Order 6 Rule 17 of the Code of Civil Procedure for amendment in his reply.

2. It is contended that he filed his reply in January-2022 but he wants to amend his reply for addressing some facts which are very much important for this case. There is decree of divorce on the ground of adultery passed by Hon'ble District Court, Itarsy (M.P) on dated 09.01.2023 against the applicant. She is wife of Vijay Wasnik and resides with him. Therefore, she is not entitled for any maintenance from him. The proposed amendment is based on development during the pendency of application. Therefore, no prejudice would be caused to the applicant nor it will change nature of the application if the application is allowed. Hence, prayed to allow the application.

3. The applicant filed her reply on the application itself and strongly opposed the application. It is contended that the application is not maintainable. It is well settled law that in amendment application the party cannot be permitted to withdraw his admission which is specifically admitted by the non-applicant in his reply that the applicant is his legally wedded wife and same cannot be permitted to withdraw from record. No purpose of

amendment is given by the non-applicant. The amendment is vague and therefore cannot be allowed. Hence, prayed to reject the application.

4. Heard both sides.

5. It is the contention of the non-applicant that as he obtained decree of divorce on the ground of adultery against the applicant, she is not entitled for maintenance and therefore he wants to amend his reply in that respect. On the contrary, it is the contention of the applicant that the non-applicant did not give purpose of amendment in the application, the amendment is vague and therefore it cannot be allowed.

6. It is settled law that parties can file amendment application in the Domestic Violence proceeding as it is quasi civil proceeding and there is no bar to file amendment application by the non-applicant for amending his reply. Even under Section 28 of the Domestic Violence Act the Court can lay down its own procedure to deal with applications filed in the proceeding.

7. It is the contention of the applicant that the non-applicant cannot withdraw his contention from the reply. But perusal of application shows that the non-applicant is not withdrawing any of his contention already contended in his reply but he wants to address some facts in his reply which are very important for this case as he obtained decree of divorce against the applicant. The non-applicant filed said decree on record for perusal of the Court which supports his contention. Therefore, the applicant cannot denied said fact. If the applicant has any grievance against said decree, she could file appropriate proceeding before the appropriate court. Therefore, there is no

substance in the contention of the applicant that the amendment is vague.

8. The proposed amendment appears to be subsequent facts. Therefore, there is no hurdle to allow the application. In view of decree of divorce passed against the applicant, in my view, there is necessity to bring said fact on record for the just decision of the case. No prejudice would be caused to the applicant if the application is allowed because she can amend her petition in respect of proposed amendment, if any. Thus, the application deserves to be allowed. Hence, I pass following order.

ORDER

1. Application (Exh.42) is allowed.
2. The non-applicant shall carry out proposed amendment in his reply within stipulated period and file amended copy of reply accordingly.

Kamptee
Date :03.12.2025

(R.R. Sherekar)
Judicial Magistrate First Class,
(Court No.2), Kamptee.

ENDORSEMENT

Case argued on	:	03.12.2025
Order dictated on	:	03.12.2025
Transcription ready on	:	03.12.2025
Order checked and signed on	:	03.12.2025

CERTIFICATE

I affirm that the contents of this P.D.F. File are same word to word as per original order.

Name of Steno :- **Sau. P.A.Nirmal**