

Order below Exh.22 in Criminal Misc. Application No.162/2019.

This is an application filed by applicant for amendment in the original application.

2. The applicant submitted that she has filed application under Protection of Women from Domestic Violence Act, 2005. The opponent is appeared in the matter and filed his say. In para no.6 of the original application, applicant have given the details about the financial condition. In addition to said information, applicant had given additional information to her advocate. Therefore, it is necessary to include in the application. The opponent is working at village Paniv and doing the packaging work of pomegranates. Thereby he is earning Rs.20,000/- per month salary. He is having two cow and 10 ship. The opponent is earning Rs.1,50,000/- per annum. He is having welding shop and getting the income of Rs.1,00,000/-. He is having ability to pay maintenance amount to the applicant. Therefore, the above mentioned facts needs to be include in the original application. It will not change the nature of the matter. Therefore, prays to allow the application and permit her to carry out amendment in the original application.

3. On the application, opponent have filed say and raised the objection on the ground that the contents of the application are not

true and correct. The applicant did not produced the documentary evidence. Therefore, prays to reject the application.

4. Perused the application and record. Heard learned advocate Mr. S.A.Bansode for applicant and Mr. S.D. Lubal for opponent. The plaintiff have filed original application under section 12 of Protection of Women from Domestic Violence Act, 2005. It is submitted in the application that the opponent no.1 to 7 are residing together and having sound financial position. Therefore, having ability to give maintenance to the applicant. However, there is no specification about the earning of the opponent no.1. Through this amendment applicant wants to include specific contention about the earning of opponent no.1. The present matter is posted for the evidence of applicant. The applicant have filed affidavit of examination-in-chief at Exh.12. However, her cross examination is not started. Merely including the pleading about the earning of the opponent no.1 in the application will not amount to prove the said fact. The applicant needs to prove said fact through evidence. The opponent is having opportunity to cross examine the applicant. The provision of section 125 of Cr.P.C. is made for the welfare of wife. Therefore, if permission is granted to the applicant to carry out the amendment, then no harm will cause to the opponent. The opponent is having opportunity to lead evidence in his defence.

5. Hon'ble Apex Court in S. R. Sukumar Vs. Sunaad Raghuram, Criminal Appeal No.444/2015 decided on 2.7.2015 confirmed the order passed by learned Magistrate for amendment in Criminal Complaint. However, in the said case law, amendment was allowed before passing an order of issue process. In the present matter, the evidence of the applicant is not completed. However, after considering the nature of relief claimed in the original application, it will not just and proper to reject the present application. Therefore, if the application is allowed at this stage, then no harm will cause to opponent. It will just and proper to allow the amendment application. Hence, in view of above mentioned discussion, I am going to pass following order-

ORDER

1. The application is allowed.
2. The applicant to carry out amendment as prayed in the application within 14 days of this order.

(A.H.Shaikh)

Date : 29.01.2021.

Judicial Magistrate, First Class, Sangola.

Certificate

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment

- a) Name of the Stenographer :A.A.Chavan.
- b) Court : 2nd Jt. Civil Court, Sangola
- c) Judgment/Order signed by PO on : 29.01.2021
- d) Judgment/Order uploaded on : 30.01.2021.