

C 482 of 2019

Present: **Dr. Sarbhanu Ghoshal**, JM 2nd Court, Barasat
(J.O. Code WB01433)

Order dated 11.05.26

Today is fixed for hearing of amendment petition dated 17.07.2025 filed by petitioner/aggrieved person/wife.

From the perusal of the record it appears that the instant case is running *ex-parte*.

Ld. advocate for the petitioner filed the *hazira*.

Heard Ld. advocate for the petitioner.

Considered.

The petitioner/wife filed the instant case against the opposite party/husband u/s 12 r/w secs 17, 18, 19 & 20 of the Protection of the Women from Domestic Violence Act 2005 (*hereinafter referred as P.W.D.V Act*) on 26.03.2019. The instant case is fixed for *ex-parte* hearing. Ld. advocate for the petitioner submits that there are some typographical mistakes in the application which are purely formal in nature. Through the instant petition Ld. advocate for the petitioner prayed for amendment of the main application for correcting those typographical errors which are purely formal in nature and does not change the nature and character of the instant case, otherwise the petitioner will suffer irreparable loss.

Before moving further it is highly pertinent to have a look upon the observations of the Hon'ble Apex Court in ***Kunapareddy @ Nookala Shanka Balaji v. Kunapareddy Swarna Kumari And Another***, AIR 2016 SC 2519 which runs as:

“12. In fact, the very purpose of enacting the DV Act was to provide for a remedy which is an amalgamation of civil rights of the complainant i.e aggrieved person. Intention was to protect women against violence of any kind, especially that occurring within the family as the civil law does not address this phenomenon in its entirety. It is treated as an offence under Section 498A of the Indian Penal Code. The purpose of enacting the law was to provide a remedy in the civil law for the protection of women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society. It is for this reason, that the Scheme of the Act provides that in the first instance, the order that would be passed by the Magistrate, on a complaint by the aggrieved person, would be of a civil nature and if the said order is violated, it assumes the character of criminality.....

*16. We understood in this backdrop, it cannot be said that the Court dealing with the application under DV Act has no power and/or jurisdiction to allow the amendment of the said application. **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. **It is not that there is a complete ban/bar of amendment in the complaints in criminal Courts which are governed by the Code, though undoubtedly such power to allow the amendment has to be exercised sparingly and with caution under limited circumstances.**”*

(Emphasis supplied by me)

Coming back to the instant case, after considering all, this Court is of the opinion that the amendment sought by the petitioner through the instant petition becomes necessary in the view of the

subsequent changes in the market price of the commodities, in order to avoid multiplicity of the proceedings. In the instant case amendment so sought by the petitioner is made *bona fide* and purely formal in nature which does not change the nature and character of the case and if such amendment is allowed by this Court, it will not prejudice the other side. On the other hand it is a fact that the said amendments are necessary and should be accepted for proper adjudication of the dispute and to determine the real questions in controversy. It is a fact that by refusing the amendment, it would lead to multiplicity of the case. The Court is of the view that allowing the application for amendment does not mean that the application is thereby decided. On the contrary the amendment is just a kind of advance notice upon the other side as to how he would substantiate his case and so that the petitioner could made his stand also.

Accordingly, it is

O R D E R E D

that the instant petition for amendment so filed by the petitioner on 17.07.2025 is hereby considered and allowed *ex-parte* without any order as to payment of cost.

Fix 26-08-2026 for filling of amended application strictly in terms of the petition dt. 17.07.25.

Typed and Corrected by me
Sd/-

**Judicial Magistrate, 2nd Court
Barasat, North 24 Parganas**

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