
(2012) 03 BOM CK 0001

In the Bombay High Court

Case No : Criminal Writ Petition No. 490 of 2012

Lalit

APPELLANT

Vs

Vandana and Others

RESPONDENT

Date of Decision : 04-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 6 Rule 17
Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2013) ALLMR(Cri) 2704

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : A.H. Jamal, for the Appellant; Kirti Satpute, for the Respondent

Final Decision : Disposed Off

Judgement

M.L. Tahaliyani, J.—Heard Dr. Jamal, learned counsel for the petitioner and Ms. Satpute, learned counsel for the respondents. Rule. Rule returnable forthwith by consent of learned counsel for the parties.

2. The petitioner feels aggrieved by the order passed by the Family Court, Nagpur, in Petition No. E-11/2008 rejecting the application of the petitioner for amendment of his reply in a proceeding u/s 125 of the Code of Criminal Procedure.

3. The petitioner is the respondent before the Family Court in a petition for maintenance filed by his wife. The evidence of the applicant/wife was concluded and thereafter the petitioner made an application for amendment of reply. The learned trial Court rejected the application on the ground that the amendment cannot be carried out in view of the amended provisions of Order VI Rule 17 of the Code of Civil Procedure. The apprehension of the petitioner, therefore, is that he will not be able to lead evidence in respect of further developments.

4. The apprehension of the petitioner, in my opinion, is ill-founded inasmuch as the proceedings u/s 125 of the Code of Criminal Procedure are of quasi civil

nature. In such a proceeding, it is not necessary to adhere strictly to the provisions of Code of Civil Procedure. As such, the evidence in respect of the facts which cover further developments can be led without there being any pleading in that regard. Needless to state, the probative value of such evidence will have to be decided by the trial Court. However, the petitioner cannot be precluded from leading evidence only because there was no pleading in that regard. It may be further noted that the application under action 125 of Code of Criminal Procedure is to be decided summarily for the purpose of speedy disposal on the ground of convenience and social order. The present petition, therefore, can be disposed of with a direction to the Family Court to abide by the observations made by this Court hereinabove. The petition accordingly stands disposed of.