

**HIGH COURT OF TRIPURA
AGARTALA**

FA 05 of 2022

Sukanta Sarkar

-----Appellant

Versus

Soma Saha (Sarkar)

-----Respondent

For Appellant(s)	: Mr. S. Bhattacharjee, Adv.
For Respondent(s)	: Mr. B. Debbarma, Adv.
Date of hearing and date of judgment and order	: 05.07.2023.
Whether fit for reporting	: YES/NO

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE ARINDAM LODH**

ORDER

Heard Mr. S. Bhattacharjee, learned counsel appearing for the appellant as well as Mr. B. Debbarma, learned counsel appearing for the respondent.

[2] This is an appeal under Section 19(1) of the Family Court's Act, 1984, against the judgment & Decree, dated, 03.02.2022 passed by the Ld. Addl. Judge, Family Court, Agartala, West Tripura in T.S. (Divorce) 326 of 2020.

[3] It is the case of the appellant-husband that the marriage between the appellant and respondent was solemnized on 19.04.2019 as per their rites, rituals and customs. Out of the marriage, a child was born to them on 29.08.2020. The appellant and respondent are Hindus by religion and as such they are governed by the Hindu Marriage Act, 1955. Since after the marriage, the respondent-wife has been treating the appellant-husband with cruelty. The respondent also lodged malicious complaint against the appellant and his parents to the Women PS. Not only that the respondent has also lodged complaint against the appellant & his parents to the Women Commission as well as District Legal Services Authority, Melarmath, due to the continuous threat & demand of the respondent, the appellant agreed to live separately in a rented house leaving his parents. The respondent also abused the appellant physically and mentally.

[4] Being confronted with such unbearable cruelty & having found that all attempts to pursue the respondent to stop treating the appellant with cruelty failed, the appellant was left with no other alternative but to file an application Under Section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955 for dissolution of the marriage of the appellant & the respondent by a decree of divorce on the ground of cruelty &

desertion. The said application was registered as T.S. (Divorce) 326 of 2020 in the file of Ld. Family Court, Agartala West Tripura.

[5] After getting summon from the Ld. Court the respondent appeared before the Ld. Court Family court & submitted written statement, denying & disputing the averment made in the application for divorce filed by the appellant. The respondent contended that they shifted to rented premises in terms of the agreement, dated 08.10.2019 & lived there few months peacefully but ultimately, the appellant left the rented premises taking all the precious articles with him leaving the respondent with her breast feeding baby. The respondent tried to contact with the appellant but without any result.

[6] On the basis of the pleadings, the Ld. Court framed the following issues for adjudication of the divorce petition:

- (i) Whether the respondent has subjected the petitioner to cruelty since their marriage by harassing and abusing?*
- (ii) Whether the respondent has deserted the petitioner for a continuous period of not less than 2(two) years immediately before presenting the instant application of divorce?*
- (iii) Whether the petitioner is entitled to a decree of divorce on the grounds, as prayed for?*

[7] Thereafter, by judgment & decree dated 03.02.2022 passed by the Ld. Addl. Judge, Family Court, Agartala, West Tripura in T.S. (Divorce) 326 of 2020, the Ld. Court below dismissed the suit & passed decree accordingly. The Ld. Court below decided all the issues negative against the appellant.

[8] Being aggrieved by and dissatisfied with the impugned judgment & decree dated 03.02.2022, passed by the Ld. Addl. Judge, Family Court, Agartala, West Tripura in TS(Divorce) 326 of 2020, the appellant has preferred the instant appeal under section 19(1) of the Family Court's Act, 1984.

[9] By way of filing this appeal, the appellant husband has sought for the following relief.

- (i) Issue notice*
- (ii) Call for records*
- (iii) Hear both sides and*
- (iv) After hearing allow the appeal filed under Section 19(1) of the Family Court's Act, 1984, against the Judgment & Decree dated 03.02.2022 passed by the Ld. Addl. Judge, Family Court, Agartala, West Tripura in TS (Divorce) 326 of 2020 by setting aside the aforementioned judgment.*

And
- (v) The Hon'ble Court may also pass any further order/order(s) as may be deemed be fit and proper.*

[10] Today, the appellant-husband and the respondent-wife are present before this court complying the order dated 21.06.2023 passed by this court. The appellant-husband and respondent-wife both are willing to accept the divorce. The respondent-wife prays for permanent alimony. The appellant husband agreed to give Rs.12 lakhs in three installments (Rs.4 lakhs each) in three consecutive months. The first installment shall be paid on or before 31.07.2023 and the next two installments be paid on or before the end of August and September, 2023 respectively. The respondent wife has agreed to the same.

[11] Further, it is agreed by both sides that there are arrears of Rs.30,000/- towards the maintenance to be paid by the appellant-husband. The appellant-husband agreed to pay the sum of Rs.30,000/- by the end of July, 2023.

[12] It is made clear that no further extension of time would be granted for making the payment. If the appellant-husband becomes defaulter, the amount paid by the husband appellant to the wife would be appropriated and further liberty is given to the respondent wife to avail remedies under law.

[13] With the observation made above, the divorce is granted to the parties along with permanent alimony to be paid by the appellant-husband.

[14] It is also agreed by both sides since the divorce is ordered, the respondent-wife shall take steps before all concerned courts/forum for closing criminal cases, if any, against the husband.

[15] To put a quietus to the litigation between the husband and wife, the courts below and the authorities are expected to act accordingly.

[16] In view of the above discussion, the order dated, 03.02.2022 passed by the Ld. Addl. Judge, Family Court, Agartala, West Tripura in T.S. (Divorce) 326 of 2020 rejecting divorce stands set aside and accordingly the appeal stands allowed by granting divorce to both the parties.

[17] With the above observation, the appeal stands disposed of.

JUDGE

JUDGE

Dipak

DIPAK DAS
Digitally signed by
DIPAK DAS
Date: 2023.07.06
17:35:01 +05'30'