

Court No. - 39

Case :- FIRST APPEAL DEFECTIVE No. - 61 of 2019

Appellant :- Awadhesh Yadav

Respondent :- Anita Yadav @ Dimpal

Counsel for Appellant :- Shesh Nath Singh Yadav

Counsel for Respondent :- Prem Shankar Sharma

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Mr. Shesh Nath Singh Yadav, learned counsel for the appellant and Mr. Prem Shankar Sharma, learned counsel for the respondent.

2. Supplementary affidavit filed on behalf of the petitioner in Court today is taken on record.

3. The present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising from an order dated 29th November, 2018 passed by the Principal Judge, Family Court, Varanasi in matrimonial case no. 1346 of 2016 (Awadhesh Yadav Vs. Smt. Anita Yadav @ Dimpal). By that order, the learned court below has dismissed the divorce suit proceeding instituted by the present appellant.

4. Upon hearing the learned counsel for the parties, it transpires, the parties were married on 26th April, 2012 but they have been living separately for almost 12 years. There is no child born to the marriage. In such circumstances, the appellant had instituted the divorce case proceeding making various allegations against the respondent. The learned court below did not believe those allegations and dismissed the divorce case proceeding.

5. Also, in the context of matrimonial discord experienced by the parties, various disputes arose between them including the criminal case lodged by the respondent against the appellant, that was referred to mediation by this Court in Application U/S 482 No. 6281 of 2021. Vide interim settlement deed dated 9th January, 2022 of this Court, settlement was reached, wherein it was agreed between the parties that the marriage between them may be dissolved subject to payment of Rs.3 lacs by the appellant to the respondent towards final settlement. Of that, Rs. 2 lacs was agreed to be paid on the next date i.e. 16th January, 2022.

6. It is then stated that the above settlement could not be acted upon immediately. However, on 14th May, 2022, in a proceeding arising under Section 128 Cr.P.C., such settlement was recorded by means of the order dated 14th May, 2022 passed at the National Lok Adalat. Certified

copy of that order has been annexed as Annexure-S.A.-3 to the supplementary affidavit. It does record payment of Rs. 2 lacs made by the appellant to the respondent.

7. In such circumstances, the appellant has produced in Court demand draft for Rs. 1 lac dated 17th November, 2023, in favour of Ms. Anita Yadav, drawn in the State Bank of India bearing No. 278244. The same has been handed over to the learned counsel for the respondent in the Court for onward communication and encashment by the respondent.

8. Thus, on one hand, the marriage between the parties has been agreed to be dissolved subject to settlement noted above and on the otherhand, the terms of settlement are seen to have been complied with.

9. Also, Prem Shankar Sharma, learned counsel for the respondent could not dispute the correctness of the facts noted above and he states that the respondent has no objection if the marriage between the parties is dissolved in view of the settlement reached between the parties.

10. In view of interim settlement deed dated 9th January, 2022 and further settlement deed dated 6th April, 2022 (Annexure No. S.A.2 to the supplementary affidavit), the order dated 29th November, 2018 passed by the Principal Judge, Family Court, Varanasi in matrimonial case no. 1346 of 2016 (Avdhesh Yadav Vs. Smt. Anita Yadav @ Dimpal) is set aside.

11. Also, the present appeal is allowed. The marriage between the parties shall stand dissolved from today.

12. No order as to cost.

(Shiv Shanker Prasad, J.)

(Saumitra Dayal Singh, J.)

Order Date :- 8.12.2023

Sushil/-