

**HIGH COURT OF TRIPURA
AGARTALA**

MAT App. No.08 of 2023

Sri Dilip Chandra Das
..... Appellant(s)
V E R S U S
Smt. Chanchala Talukdar (Das)
..... Respondent(s)

For Appellant(s) : Mr. P.S. Roy, Advocate.
For Respondent(s) : Mr. Arjun Acharjee, Advocate.
Ms. S. Sarkar, Advocate.
Mr. R. Acharjee, Advocate.

MAT App. No.14 of 2023

Smt. Chanchala Talukdar (Das)
..... Appellant(s)
V E R S U S
Sri Dilip Chandra Das
..... Respondent(s)

For Appellant(s) : Mr. Arjun Acharjee, Advocate.
Ms. S. Sarkar, Advocate.
Mr. R. Acharjee, Advocate.
For Respondent(s) : Mr. P.S. Roy, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

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22/01/2024

Both the appeals have arisen from the judgment dated 12.05.2023 passed by the Family Court, Dharmanagar, North Tripura in TS (Div) 21 of 2020 and consequent decree thereof whereby the marriage tie between the parties were dissolved by a decree of divorce and the petitioner-husband Dilip Chandra Das was directed to pay monthly maintenance @Rs.5,000/- (Rupees five thousand) to the respondent-wife w.e.f. 01.05.2023.

[2] Prior to institution of TS (Div) 21 of 2020, the husband filed another divorce proceedings vide No. TS (Divorce) 39 of 2016 in the Court of the District Judge, North Tripura, Dharmanagar seeking divorce against the wife on the ground of cruelty and also for her mixing with another gentleman and for maintaining unrestricted lifestyle. Vide judgment dated 11.01.2019, the District Judge, North Tripura, Dharmanagar granted decree of judicial separation in lieu of decree of divorce despite the fact that said Court was of the opinion that cruelty towards husband by the wife was proved but still there was some hope of repairing of their relationship.

[3] The petitioner-husband, thereafter, filed TS (Div) 21 of 2020 on 11.03.2020 i.e. after completion of 1 (one) year of judicial separation on the ground that there was no resumption of cohabitation between them during the period of said 1 (one) year. The Judge, Family Court came to the similar conclusion that there was no resumption of cohabitation between the parties and therefore decree of divorce was granted with further direction to the petitioner-husband to pay monthly maintenance of Rs.5,000/- (Rupees five thousand) to the wife till she remarriages.

[4] Challenging the said judgment and decree, the husband has filed the abovesaid MAT App. No.08 of 2023 mainly on the ground that he earlier used to work in a private company and for winding up of the company, he was rendered unemployed and therefore granting of alimony of Rs.5,000/- (Rupees five thousand) per month to the wife was highly excessive.

[5] The wife, on the other hand, filed her appeal bearing No. MAT App.14 of 2023 challenging the decree of divorce averring that she was always

ready to reside with her husband to lead conjugal life and even in that hope she did not file any petition for maintenance or any case under Section 498A of the IPC against her husband. But the husband was all along adamant not to join her and therefore deprived her from enjoying her conjugal life. Moreso, the permanent alimony as granted was also not adequate.

[6] We have heard both Mr. P.S. Roy, learned counsel representing the husband and Mr. Arjun Acharjee, learned counsel representing the wife.

[7] Mr. Roy, learned counsel argued that after his client became jobless, he is rendered completely unemployed having no source of income and therefore imposing the responsibility to pay Rs.5,000/- (Rupees five thousand) per month was very much harsh on his client.

[8] Mr. Arjun Acharjee, learned counsel argued that his client never treated her husband with any sort of cruelty and was ever willing to lead happy conjugal life with him but the learned Judge, Family Court has lost sight of the same. Moreso, the petitioner-husband could not prove the allegation of cruelty upon him by his wife successfully and therefore the decree of divorce is liable to be set aside. According to Mr. Acharjee, learned counsel, the petitioner-husband is a rich person having his 2(two) houses and sufficient bank balance and therefore the quantum of alimony as was determined by the learned Judge, Family Court, was inadequate.

[9] It is admitted position that decree of judicial separation was passed on 11.01.2019. It is also admitted by the respondent-wife in her cross-examination that for last 8 (eight) years she was living separately from her husband and therefore it is apparent that there was no resumption of cohabitation during the

period of judicial separation. Therefore, the Family Court has committed no error in granting the decree of divorce.

[10] So far the matter of permanent alimony is concerned, the petitioner- husband in his evidence stated that after winding up of the company where he would work, he lost his job and thereafter he started doing private tuition for his survival. There was no cross-examination in respect of this part of evidence. On the other hand, the respondent-wife in her cross-examination has admitted that she received some honorarium from the Government for working as a substitute Anganwadi worker. Apart therefrom, no further satisfactory evidence is led by either parties regarding monthly income of them. Therefore, the order passed by the Family Court granting Rs.5,000/- (Rupees five thousand) per month as alimony to the respondent-wife appears to be proper.

[11] In view of above, both the appeals bear no merit and accordingly both the appeals are dismissed.

No order as to costs. Send down the LCRs.

Pending application(s), if any, also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ