

GAHC010003612012



2024:GAU-AS:11771

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./109/2012

BISHNU KUMAR
S/O SHRI NAREN CH KUMAR R/O NEAR DON BOSCO SCHOOL,
MALIGAON, P.O. MALIGAON, P.S. JALUKBARI, DIST. KAMRUP, ASSAM,

VERSUS

SMT. BEATY DAS
D/O SHRI PHANIDHAR DAS R/O NEAR DON BOSCO SCHOOL, MALIGAON,
P.O.MALIGAON, P.S. JALUKBARI, DIST. KAMRUP, ASSAM.

Advocate for the Petitioner : MR.D TALUKDAR, AMICUS CURIAE,MR.G K
THAKURIA,MS.N S THAKURIA

Advocate for the Respondent : MR.A ALI, MRJ PAYENG,,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

26.11.2024

1. None appears for the parties on call.
2. The present petition under Section 397/401 read with Section 482 of the Code of Criminal Procedure, 1973 is filed assailing a judgment dated

09.12.2011 passed by the learned Principal Judge, Family Court, Kamrup (M) at Guwahati, in F.C. (Crl) Case No. 248/09 under Section 125 of the Code of Criminal Procedure, 1973.

3. By the aforesaid judgment, the learned Principal Judge, directed the petitioner to pay Rs. 1500/- per month to the respondent from the date of passing of the judgment.
4. The aforesaid case i.e. F.C. (Crl) Case No. 248/09 under Section 125 of the Code of Criminal Procedure, 1973 was preferred by the respondent wife.
5. The case of the respondent as projected was to the effect that the respondent and the petitioner got married as per Hindu rites and rituals and thereafter, they lived together at the residence of the petitioner. However, after few months of their marriage, the petitioner started behaving cruelly with the respondent wife. It is also alleged that there was a miscarriage at one and half months of pregnancy due to physical and mental torture meted upon her. It is also an allegation that the petitioner was an addict and he was admitted to a rehabilitation home for his treatment. It is also alleged that though the petitioner is a government servant, he has neglected to maintain the respondent wife and the respondent wife did not have any source of income to maintain herself and due to the cruelty meted, she had to live separately.
6. The case projected by the petitioner is the denial of any torture upon the respondent compelling her to leave the house, though the marriage has been admitted.
7. The materials available on record also suggest that the respondent wife

filed a complaint case being Complaint Case No. 7792^C/2007 for return of streedhan which was dismissed by the learned Chief Judicial Magistrate, Kamrup, Guwahati on 29.04.2009. It is also on record that the petitioner instituted an application under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal right before the Court of learned Principal Judge, Family Court, Guwahati. According to him, to counter blast such petition, an application under Section 125 of Cr.P.C. was filed.

8. It is also on record that the **respondent wife** filed a suit for decree of divorce being F.C. (Civil) Case No. 635/2010 which was disposed of in Lok Adalat by an order dated 09.11.2010 on the basis of a settlement arrived between the parties inasmuch as petitioner withdrew the earlier case of restitution of conjugal rights. Accordingly, marriage between the parties was dissolved by way of a mutual divorce as per the terms and conditions mentioned in the joint petition.
9. The application, on the basis of which the decree of divorce was passed reflects that the parties had agreed to divorce by mutual consent and the husband had agreed to return the streedhan. In the aforesaid backdrop, the present application was filed for quashment.
10. Perusal of the application filed before the Lok Adalat as well as decree of dissolution of marriage passed by the Lok Adalat suggest the settlement between the husband and wife to the effect that the streedhan will be returned back to the wife and the marriage will be dissolved. However, there was nothing to suggest that any permanent alimony will be paid on dissolution of the marriage or that the husband will not maintain the wife after the dissolution of the marriage.

11. In view of the aforesaid, this Court in absence of the counsel for the petitioner and the respondent No. 2, cannot presume that the matter has amicably been settled. This Court cannot interfere with the reasoned decision of the learned Principal Judge, Family Court on this count. Therefore, this Court has gone into the impugned judgment as well as the material available on record.
12. From the evidence and material available on record, it is seen that the respondent has been able to establish that the petitioner husband was having means and that the respondent wife was unable to maintain herself and she did not have any sufficient means to maintain her.
13. In view of the aforesaid evidence, this Court is not inclined to exercise its revisional power and/or inherent power to interfere with the decision of the learned Principal Judge, Family Court inasmuch as such decision cannot be said to have any patent defect or an error of jurisdiction or of law. The decision was arrived on the basis of evidence available on record. This Court is of the opinion that such decision is a well reasoned decision and cannot be termed as a perverse decision. In view of the aforesaid, this criminal revision petition stands dismissed.
14. While parting with the record, it is however, made clear that the parties shall be at liberty to approach before the learned Principal Judge, Family Court, Kamrup, Guwahti, if there is any change in situation and in the event such application is filed, same may be considered as per law.

JUDGE