



\$~37

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAT.APP.(F.C.) 320/2025, CM APPL. 55559/2025 (Delay of 550 days in filing the appeal) & CM APPL. 55560/2025 (Delay of 26 days in Re-filing)

RACHNA DASS

.....Appellant

Through: Mr. Vivek Sharma & Mr. VK Mehra, Advs.

versus

SANJAY KUMAR DASS

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

%

03.09.2025

1. While filing the appeal, the Appellant has filed an application for condoning the delay of 550 days in filing the appeal.
2. This Bench has heard learned counsel appearing for the Appellant on the merits.
3. It has come on record that the Appellant and her husband (Respondent) are residing separately for the last 9 years.
4. The Appellant made allegations that her husband is going around with her sister-in-law (brother's wife).
5. Appellant also alleges that her brother-in-law i.e., brother of the husband, teased her inappropriately.
6. A police complaint was lodged by the Appellant against her brother-in-law; however, no action was taken as the police did not find



any merit therein.

7. The Appellant has also alleged that she was beaten by her husband at the instigation of her sister-in-law. However, she failed to substantiate these allegations.

8. In such circumstances, the Family Court did not find it appropriate to grant decree for restitution of conjugal rights.

9. Learned counsel appearing for the Appellant submits that the husband (Respondent) withdrew from the company of Appellant. Hence, she is entitled to restitution.

10. This Court has considered the submission and finds no substance therein.

11. In fact, upon a comprehensive appraisal of the pleadings and evidence, the Family Court rendered clear findings in paragraphs 19–20 and 23–24 of its judgment. It is considered appropriate to reproduce the said portions herein:

“19. Both parties have made allegations and counter allegations of matrimonial misconduct against each other in their lengthy pleadings, which have been noted in some detail in earlier part of this judgment. It is the allegation of the petitioner that at the time of her marriage, it was represented that the respondent owned a house at Delhi and he was running his own business but these representations were not true. She has alleged that she was ill treated by the respondent, his brothers and bhabhi as they were not satisfied with the articles of dowry given in her marriage and they desired more dowry and money. She has alleged that the mother of the respondent owned a plot at Vasundhara, Ghaziabad, U.P. but the construction of the house thereon was part financed by her and her parents under coercion. She has alleged that the respondent after her marriage, used to beat her and he was instigated for that purpose by her jeth, jethani and dever. She has alleged that her jethani has some illicit relation with the respondent and thus her jethani is in a position to provoke the respondent at her desire. The petitioner has also alleged that her dever was also looking for reasons to quarrel with her (the petitioner) and on 02.02.2009, he teased the petitioner with a wrong intention. She has alleged that on this she called her parents and her parents called police officials



but the police officials favoured her deaver and made her close the matter.

The petitioner has alleged that the respondent desired divorce by mutual consent for which she did not give her consent and ultimately she was forced out of her matrimonial home. She has alleged that subsequently, she kept on calling the responder but he did not respond to her calls.

20. The respondent has denied the allegations of the petitioner. He has his own version. The respondent alleges that at that time of engagement ceremony, it appeared that the petitioner was not happy with the marriage and it appeared that she was hiding something. He has alleged that the family of the petitioner was showing an undue haste for the marriage. The respondent has alleged that immediately on coming to his home after marriage, the petitioner informed him about her affair with a Muslim boy. The respondent has alleged that the petitioner desired that he should separate from his parental family. He has alleged that his mother was diagnosed with serious health problems but the petitioner did not take care of his mother. The respondent has alleged that the mother of the petitioner was interfering in the matrimonial life of the parties and the parties and the petitioner was disclosing all things about the affairs of his family to her mother. He has alleged that after her marriage, he happened to see certain objectionable messages in the mobile phone of the petitioner and he came to know that she continued to be in touch with the boy. The respondent has alleged that the petitioner used to misbehave with him and members of his family and she is an adamant woman.

23. As noted, the precondition for passing of the decree for restitution of conjugal rights is the satisfaction of the court about the truth of statements made in the petition. Fact remains that though the petitioner desires restitution of conjugal rights, she has made allegations of demands of dowry and harassment in her petition and affidavit of evidence. Apart from her own vague assertions, which are denied by the respondent, there is nothing on record to support these allegations. Moreover, the petitioner in her petition and affidavit has alleged that the respondent has some illicit relations with his bhabhi (jethani of the petitioner) and thus her jethani is in a position to provoke the respondent to beat the petitioner at her desire. The petitioner in her cross examination was asked as to on what basis she had made this allegation on which she responded that she had seen the respondent putting his hands around the neck of her bhabhi and based on that, she has stated that the respondent has illicit relations with his bhabhi. This, to my mind, is a very flimsy explanation. Making of such serious and defamatory allegation against the respondent and his sister-in-law in the casual manner cannot be justified. The petitioner in para



no.37 of her affidavit of evidence has also made allegation of extra marital relations of the respondent with other woman. The petitioner has also alleged that on 02.02.2009, her dever teased her with a wrong intention on which her parents went to police station but the police favoured her dever. However, no documentary evidence brought on record. She has also made allegations against her dever, who is stated to be part of cadre of Delhi Judicial Services of misusing his official position against her. The allegations of the petitioner are again vague and apart from her own self serving statements, there is nothing on merits to substantiate these allegations.

24. The petitioner in this petition and affidavit of evidence has made allegations of demand of dowry and harassment against the respondent. However, a few months earlier to filing of this petition, the petitioner had filed a complaint (Ex.PW I /5) addressed to Police Commissioner/SSP, Ghaziabad in which she had alleged that her jethani and clever keep her husband under intoxication (mere pati ko nasha karate hain) and her husband at the instigation of these relatives has forced her out of her home. In this complaint, she had requested that she be made to live with her husband separate from his relatives in the house of the family of the respondent at Vasundhara in a different floor. This document has been filed by the petitioner itself. The case of the petitioner in this document is at variance with her case in the petition.”

12. The correctness of the said findings has not been assailed before this Court, except for the solitary contention that the husband withdrew from the company of the Appellant. Hence, no ground is made out to interfere.

13. This appeal along with all pending application(s), if any, is dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 3, 2025/ v/kr