

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.585 of 2012

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Shiv Shankar Thakur

.... Appellant/s

Versus

Pinki Kumari & Anr.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Srivastava

For the Respondent No. 1 : Mr. Mukesh Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

8 27-04-2015

Heard learned counsel for the appellant- husband and

learned counsel for the respondent- wife.

2. This appeal has been filed by the husband, as he is aggrieved by the judgement dated 16th July, 2012 passed by the Principal Judge, Family Court, Vaishali in Original Suit (Divorce) Case No. 13/2002 rejecting the petition to dissolve his marriage with Respondent No. 1 on the ground of desertion and adultery. The ground of desertion is raised asserting that Respondent No. 1 came to her parental home on 24.03.2001. In this connection, learned Principal Judge with reference to dates mentioned in paragraph-13 has concluded that the Respondent No. 1- left her matrimonial home on 24.03.2001 and the present suit was filed on 31.01.2002 i.e. within ten months of Respondent -1 leaving her Matrimonial Home. The allegation that the wife deserted the husband could not have been raised and proved within ten months of Respondent-1 leaving the matrimonial home.

3. Other submission raised in the petition for divorce

that wife was leading an adulterous life with Shri Pramod Kumar Rai has also not been proved as the letter dated 23.03.2001, Exhibit A and other letters, mentioned at pages -11 and 12 have been recovered by the appellant behind the back of his wife from an Almirah, keys whereof was with the husband throughout.

4. The Court below has chosen not to place reliance on those letters as according to the Court below, the letters have been manufactured by the husband with the assistance and in presence of his friend, P.W. 2. The Court below having not found any substance in any of the two grounds rejected the petition for divorce.

5. In the circumstances, we have no reason to entertain this appeal, which is dismissed with cost of Rs. one lac. No sooner the amount of the cost is realized from the appellant, the same should be given to the wife as she has neither been provided with any alimony nor litigation cost.

6. Having dismissed the appeal on merit, there is no occasion for us to condone the delay in filing the appeal. The limitation petition bearing I.A. No. 5640/ 2012 is also dismissed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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