

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Appeal No.664 of 2010**

Rakesh Kumar, son of Sri Raghunath Prasad, R/o- near Gulab bagh power house,  
P.S. Bettiah, District- West Champaran, Bettiah.

.... .... Appellant

Versus

Srimati Sandhya Devi @ Guria Kumari, w/o Rakesh Kumar, D/o Asharfi Lal  
Rauniar, R/o- Gulabagh Bettiah, P.S. Bettiah, District- West Champaran. At present  
address- C/o- Gita Sri Vastralaya, Nr. Police Chouki, P.O. + P.S. Kaptanganj,  
District- Kushi Nagar, U.P.

.... .... Respondent

**Appearance :**

For the Appellant : Mr. Shyam Sunder Pandey, Advocate.

For the Respondent : Mr. Shiv Kumar Dwivedy, Advocate.

**CORAM: HONOURABLE MR. JUSTICE V.N. SINHA**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

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

**Date: 20-05-2015**

Heard learned counsel for the appellant  
and the respondent.

2. Husband is the appellant. He has  
filed this appeal assailing judgment dated 13.07.2010  
passed by Principal Judge, Family Court, Bettiah in  
Divorce Case No. 43/2005, whereunder request of the  
husband to dissolve his marriage with the sole  
respondent has been rejected holding that neither the  
wife deserted the husband nor she was in adulterous  
relationship with her brother-in-law Ram Naresh  
Rauniar. In this connection, court below has  
discussed Issue No. 3 relating to desertion in



Paragraph 8, has held that the ground that wife deserted the appellant on the pretext that her mother is ill is not proved with cogent evidence in view of her evidence that she was always ready to cohabit with the respondent, to join the matrimonial home. True it is that on the ground of illness of the mother respondent came to her parental home, on the date appellant visited the parental home of the respondent, found the mother-in-law not ill, may be because by then mother-in-law may have been cured, the factum of illness of the mother-in-law on the date respondent came to her parental home is not disproved by such fact. Issue Nos. 4, 5 have been framed in regard to the allegation of adultery, has been considered in Paragraph 9 of the judgment. The allegation of adultery also appears to be fitment of imagination of the appellant as on the date the appellant visited the paternal home of his wife, found the mother-in-law not ill, he also saw the wife sitting in a room with her brother-in-law Ram Naresh Rauniar, concluded there is somewhat suspicious relationship between the two.

3. Mere finding the sister, brother-in-law in a room sitting together cannot be a ground to



conclude that there is illicit connection between the two. In this connection, court below has stated that none of the parents of the appellant has chosen to depose about the conduct of their daughter-in-law instead two of the friends of Appellant P.Ws. 3, 4 have come forward to malign the character of the respondent. The friends of the appellant had no access to his wife, court below in our opinion, has rightly rejected their evidence, besides Respondent has given birth to a son in 2004 whose paternity the appellant has never challenged. In these circumstances, we find no merit in this appeal, which is dismissed with cost of Rs. 1,00,000/- payable to the respondent.

**(V.N. Sinha, J)**

**(Nilu Agrawal, J)**

P.K.P.

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