

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.631 of 2013

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1. Rahul Ranjan, S/O Sri Birendra Prasad Shrivastava, resident of Village & P.O: Belsand, P.S: Barauli, District: Gopalganj.

.... Appellant/s

Versus

1. Anamika Sinha, D/O Late Amarnath Prasad @ Madhav Prasad, resident of Village of Village & Post : Rahmpur, P.S.: Garkha, District- Saran, at present residing House of Gorakh Sah, Mohalla: Dahiyawan Tola, P.S: Chapra Town, District: Saran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Niraj Kumar

For the Respondent/s : Mr.

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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)

15 04-05-2015

Heard learned counsel for the appellant-husband.

2. By filing this appeal, husband has challenged the order dated 20th June, 2013 passed by the learned Principal judge, Family Court, Saran at Chapra in Matrimonial Case No. 212 of 2009, whereunder request of the appellant to dissolve his marriage with sole respondent, Anamika Sinha, has been rejected.

3. It appears in support of the case, appellant examined as many as five witnesses besides himself, his parents and two of his friends. The Court below having considered the evidence of P. Ws. 1 to 5, rejected his claim that the wife was cruel to him and had aggressive nature that it was difficult for the husband to



continue matrimonial relationship with her. In this connection, learned counsel for the appellant placed reliance on the prescription dated 10.02.2009 of Dr. Purnima Ratan, Exhibit-2 perusal whereof indicates that Dr. Ratan is attached to Doctor Hasib Memorial Clinic, Patna providing Psychiatry & Gynecology related treatment. From the prescription Exhibit-2, it does not appear that she was suffering from any Psychiatric disease. Dr Ratan has not been examined to prove that respondent suffered from Psychiatric problem. Learned counsel for the appellant also referred to Annexure-3, the prescription of Dr. (Lt. Col.) S.K.Jha dated 16.05.2008, a Neuro physician and with reference to the prescription dated 16.05.2008 Annexure-3, it is submitted that respondent was referred to Psychiatry consultant, as she was suffering from suicidal risk. Dr. (Lt. Col.) S. K.Jha examined respondent on 16-05-2008, whereafter, she was examined by Dr. Purnima Ratan on 10-02-2009, as is evident from Exhibit-2 but she was not found suffering from any Psychiatric problem. In the circumstances, the allegation that respondent was abnormal, was not rightly accepted by the Court below. Learned counsel for the appellant further submitted that from application dated 15-05-2008 Annexure-9, filed by the father of the respondent before the Branch Manager, H.D.F.C., Standard Life Insurance



Company, Patna, it will appear that her daughter attempted to commit suicide because of the torture by her mother-in-law for which his Son-in-law is not responsible. In this connection it is submitted that while deposing as witness in the Divorce case, the father of the respondent, O.P.W.-2, has explained that he had submitted application dated 15-05-2008 to the Branch Manager in order to save the marriage of his daughter with appellant. Even otherwise respondent because of torture by the mother-in-law after becoming desperate may have attempted to commit suicide for which she can not be blamed. In support of his case, learned counsel for the appellant has relied on the judgments in the case of Rajendra Krishna Agrawal Vs. Smt. Sandhya Rani 2010 (1) P.L.J.R. 996 (Paras 10-14, 16, 20, 25), Sudhanshu Mauli Tripathi Vs. Meena Kumari 2010 (2) P.L.J.R. -251 (14-16, 19, 20), Pankaj Mahajan Vs. Dimple @ Kajal 2011 (12) SCC -1 (Para - 34-35), K. Srinivas Vs. K. Sunita 2015 (1) PLJR SC 126 (Paras- 1, 6 and 7), Bishwanath Agrwal Vs Sarla Bishwanath Agrawal 2012 (7) SCC- 288 (Paras -46 to 48) and 2013 (2) SCR – Page-126 paras- 11 (V), (XIV), 14, 26, 27, 28. The facts of the reported case has no similarity to the case in hand in the circumstances the case law relied upon has hardly any applications to the facts of the case.

4. In view of the findings recorded by the Court below we do not find any merit in the appeal which is dismissed.

5. We were inclined to award heavy cost upon the appellant- respondent but learned counsel appearing on behalf of the appellant submits that he has been regularly paying the maintenance amount of Rs. 3500/- to the respondent, as ordered by the Court below.

6. In the circumstances we direct the appellant to pay the respondent litigation cost of Rs. 50,000/- within three months from today.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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