

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.462 of 2013

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Rajesh Kumar Son of Late Ram Naresh Singh of Village Lohanda, P.S. Sikandara,
District Jamui

.... Appellant/s

Versus

Kumkum Devi Wife of Rajesh Kumar, D/O Bhubneshwar Singh, presently residing
at Village Khuthadih, P.S. Bahahiya, District- Lakhisarai

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar, Advocate

For the Respondent/s : Mr. Abhishek Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

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

Date: 07-05-2015

Delay in filing the appeal is condoned and limitation
petition, bearing I.A. No. 2688 of 2014 is allowed.

2. Heard learned counsel for the appellant and the
counsel for the respondent. Also spoke to the appellant-husband
and respondent-wife separately as also in presence of each other.

3. This appeal has been filed against the order dated
30.03.2013 passed by Principal Judge, Family Court, Jamui in
Matrimonial Case No. 62 of 2009 whereunder petition for divorce
filed under Section 13 of the Hindu Marriage Act, 1955 has been
rejected as the ground of cruelty raised in the petition has not been
found proved in the light of the evidence of the appellant, his
mother and sister as the court below having appraised the evidence
of the parties concluded that the respondent-wife was not cruel to

her mother, sister-in-law.

4. We have also appraised the evidence discussed by the trial court in connection with Issue No. 3 from paragraph 10 to 16 and then findings recorded in paragraphs 17, 18, 20, 21 and we are satisfied that the respondent-wife was not cruel either to her mother-in-law P.W.2 or sister-in-law P.W.3.

5. In such circumstances, we have no option, but to dismiss the appeal, which is dismissed.

6. Having dismissed the appeal, in the light of the request of the respondent-wife, we also quash the proceedings arising out of Sikandara P.S. Case No. 80 of 2010 dated 15.04.2010, Complaint Case Nos. 460 of 2010 and 898 of 2011 pending in the Court of Chief Judicial Magistrate, Jamui. Respondent has also chosen to withdraw Title Suit No. 88 of 2010 pending in the court of Subordinate Judge Ist, Jamui.

7. As the respondent-wife has agreed for quashing of the aforesaid First Information Report, the complaint case and withdrawal of title suit, appellant has also volunteered that the proceeding arising out of Sikandara P.S. Case No. 73 of 2010 dated 09.04.2010, which has been lodged by his mother against the daughter-in-law be quashed, which is, accordingly, quashed.

8. In the light of our order, appellant has also agreed

that respondent shall reside in the village home of the appellant and she will be provided by him monthly maintenance amount of Rs. 3,000/- (three thousand) per month from April, 2015 through direct bank transfer in the account of respondent-wife, number whereof she will provide to the appellant through his mobile number which has been provided by the appellant to the wife in our presence and is noted below:

Mobile No. of appellant – 09693834647

9. The arrears of the maintenance amount at the rate of Rs. 1800/- per month prior to April, 2015 shall be paid by the appellant to the respondent-wife within one year. In this connection, we are told that under order dated 21.08.2014 passed in Criminal Revision No. 1069 of 2013 this Court in the case of Rajesh Kumar Vrs. Smt. Kumkum Devi has revised maintenance amount of Rs. 4000/- per month against which appellant has instructed his Lawyer in the Supreme Court to file S.L.P. and the payment of arrears shall be subject to the said S.L.P.

10. In the event current maintenance amount is not paid to the respondent-wife regularly, she will have the liberty to either file interlocutory application in this appeal with liberty to mention the matter before the Bench or to invite the attention of the Secretary, District Legal Services Authority, Jamui, who shall take

appropriate action against the appellant so that she is paid the maintenance amount on regular basis.

(V.N. Sinha, J.)

(Nilu Agrawal, J.)

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