

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.764 of 2012

=====

Deepa Tibrewal, W/o- Ajay Kumar Tibrewal, Resident of 'Happy Complex',
Laberitola, Police Station- Tatarpur Kotwali, District- Bhagalpur.

.... Appellant

Versus

Ajay Tibrewal @ Ajay Kumar Tibrewal, S/o- Late Raj Kumar Tibrewal, Resident
of Mohalla- Chunnihari Tola, Police Station- Adampur, District- Bhagalpur.

.... Respondent

with

=====

Miscellaneous Appeal No. 62 of 2013

=====

Deepa Tibrewal, W/o- Ajay Tibrewal, Resident of 'Happy Complex', Laberitola,
Police Station- Tatarpur Kotwali, District- Bhagalpur.

.... Appellant

Versus

Ajay Tibrewal @ Ajay Kumar Tibrewal, S/o- Late Raj Kumar Tibrewal, Resident
of Mohalla- Chunnihari Tola, Police Station- Adampur, District- Bhagalpur.

.... Respondent

=====

Appearance :

For the Appellant : Mr. Ansul, Advocate.
Mr. Sanjeev Kumar, Advocate.
For the Respondent : Mr. Farooque Ahmad Khan, Advocate.
Mr. Swapnil Kumar Singh, Advocate.
Mr. Thakur Brajesh Singh, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

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

Date: 27-04-2015

In Misc. Appeal No. 764 of 2012 appellant
wife has questioned the judgment dated 23.11.2011
passed by Principal Judge, Family Court, Bhagalpur
in Matrimonial Case No. 65/2008, whereunder
marriage between appellant wife, respondent



husband has been dissolved taking into account the evidence led by the husband alone, not the wife. It is submitted on behalf of the wife that earlier Maintenance Case bearing Misc. Case No. 49/2009 filed by her was disposed of under order dated 23.02.2010, subject matter of challenge in Misc. Appeal No. 62 of 2013 on the basis of compromise between her, her husband, as the husband had agreed to take her back in the matrimonial fold, whereafter she stopped defending herself in the aforesaid matrimonial case pending in the court of Principal Judge, Family Court, Bhagalpur. The husband, however, continued not only with the *pairvi* of the said matrimonial case but also led evidence behind her back, obtained order for dissolution of her marriage dated 23.11.2011.

2. From the facts stated above, it is quite evident that wife has been duped by the husband after she agreed to join the matrimonial home, as is evident from order dated 23.02.2010 passed in Misc. Case No. 49/2009, has been confronted with the judgment dissolving her marriage, which is result of fraud being played on her. In these circumstances,

we have no option but to set aside not only the judgment dated 23.11.2011 passed in Matrimonial Case No. 65/2008 but also to set aside the order dated 23.02.2010 passed in Misc. Case No. 49/2009.

3. From the narratives made above, it is quite evident that appellant wife has not only been harassed but also duped, in the circumstances, we not only proceed to set aside aforesaid two orders but also direct respondent husband to pay litigation cost of Rs. 50,000/- to the appellant wife.

4. Both the appeals are, accordingly, allowed directing the parties to appear before Principal Judge, Family Court, Bhagalpur who shall first consider the request of the wife for payment of maintenance pendente lite and thereafter consider the case of the parties for dissolution of their marriage.

(V.N. Sinha, J)

(Nilu Agrawal, J)

P.K.P.

U		T	
---	--	---	--