

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.1046 of 2010

=====

Jyoti Kumari @ Monika Kumari, wife of Surendra Kumar Gupta, D/o- Late Lallan Prasad, at present resident of Mohalla- Mithapur near Gaya Line Gumti, P.S. Jakkanpur, P.O.- GPO, District- Patna

.... Appellant

Versus

Surendra Kumar Gupta, son of Sri Chhatu Lal Gupta, resident of Village- Sabazpura More, Vikashpuram Colony, P.S. Phulwarishariff, District- Patna.

.... Respondent

=====

Appearance :

For the Appellant : Mr. Mukesh Prasad Singh, Advocate.

For the Respondent : Mr. Vijay Kumar Mishra, 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. This appeal has been filed by the wife
against judgment dated 18.12.2008 passed by
Principal Judge, Family Court, Patna in Matrimonial
Case No. 226/2008, whereunder request of the wife
to dissolve her marriage with her husband with
mutual consent has been allowed.

3. It is submitted on behalf of the
appellant that the proceedings for dissolution of
marriage was taken at her instance when she was
under illegal confinement of her husband. In this



connection it is also pointed out that earlier respondent husband had filed Matrimonial Case No. 364/2007 seeking restitution of marriage under Section 9 of the Hindu Marriage Act, 1955 which was disposed of under order dated 22.09.2007 observing that from the evidence of the parties it appears that both are living together as husband, wife. It is submitted that after the aforesaid Matrimonial Case No. 364 of 2007 was disposed of, appellant was forced to file Matrimonial Case No. 226 of 2008 seeking divorce with mutual consent, entire proceedings were conducted giving the appellant threat of harming her brother. In this connection reference is made to the First Information Report of Phulwarisharif P.S. Case No. 363/2009 dated 06.09.2009 registered for the offence under Sections 420, 341, 323, 387, 498A, 34 of the Penal Code and Sections 3, 4 of the Dowry Prohibition Act. Matrimonial Case No. 226/2008 was filed on 28.04.2008, was disposed of under judgment dated 18.12.2008 keeping the appellant under confinement for almost eight months. First Information Report alleging illegal confinement has been filed on 06.09.2009 i.e. after nine months of grant of

consent decree for divorce. Such being the state of affairs, we are satisfied that the impugned judgment of consent divorce has been passed after taking the proceedings in accordance with law.

4. The appeal stands dismissed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

P.K.P.

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