

R.R. No. 2789/10
Presented by Shri V.S. Bhanu Singh
Dated 09/09/10

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(1)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

(C.G.)

F. A. (M) NO. 122 OF 2010

Division Bench

APPELLANT

APPLICANT/PLAINTIFF

Chakradhar Tripathi Son of Shri

Rajkumar Tripathi, aged about 34 years, Resident of Kanya Parisar Marg, Gangapur, Ambikapur, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja (C.G.).

VERSUS

RESPONDENT

NON-APPLICANT/
DEFENDANT

Usha Tripathi Wife of Shri

Chakradhar Tripathi, aged about 34 years, Presently residing near Water Tank, Namnakala, Ambikapur, Police Station Gandhinagar, Tahsil Ambikapur, District Surguja (C.G.).

MEMORANDUM OF APPEAL UNDER SECTION 19 (1) OF THE
FAMILY COURTS ACT, 1984

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HIGH COURT OF CHHATTISGARH AT BILASPUR

DB: Hon'ble Mr. T.P. Sharma &
Hon'ble Mr. I. S. Uboweja, JJ.

First Appeal (M) No. 122 of 2010

APPELLANT

Chakradhar Tripathi

VERSUS

RESPONDENT

Usha Tripathi

[Appeal under Section 19 (1) of the Family Courts Act, 1984]

Present: Shri VK Pandey, counsel for the appellant.
Shri Vikram Dixit, counsel for the respondent.

JUDGMENT
(26th February, 2015)

Per T. P. Sharma, J.

1. By filing this appeal under Section 19(1) of the Family Courts Act, 1984, the appellant has challenged legality and propriety of the judgment and decree dated 26.08.2011 passed by the Judge, Family Court, Ambikapur, district Surguja in Civil Suit No.36-A/2007, whereby the suit for dissolution of marriage by a decree of divorce filed by the appellant has been dismissed.
2. As per plaint allegation, marriage between the parties solemnized on 22.05.1998. They resided together for seven years. Thereafter, the respondent left her matrimonial house and is residing separately since 14.07.1998. The appellant tried his level best to keep her with him, but, he did not succeed. Police made several raids on the house of the respondent suspecting her character. Earlier also the appellant filed application for dissolution of marriage. Therefore, petition for dissolution of marriage by a decree of



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divorce has been filed by the appellant on the ground of torture, cruelty and desertion.

3. By filing written statement, the respondent had denied the adverse allegation and pleaded that the appellant himself has committed torture and cruelty.
4. After providing opportunity of hearing to the parties, learned trial Court has dismissed the Suit for dissolution of marriage by a decree of divorce.
5. We have heard learned counsel for the parties and perused the judgment impugned and record of Court below.
6. As per documentary and ocular evidence of the parties, both the parties have levelled allegations of torture and cruelty on each other, but have failed to substantiate with pleading. In absence of any proof of torture and cruelty by the respondent only on the ground that she has lodged report against the appellant, it would not be possible to infer that the respondent has committed torture and cruelty and has deserted the appellant.
7. In absence of any proof of ground taken by the appellant while dismissing the Suit for dissolution of marriage by a decree of divorce the trial Court has not committed any illegality requiring any interference. We do not find any illegality in the judgment impugned
8. Consequently, the appeal, being devoid of merit, is liable to be dismissed and is hereby dismissed.
9. Parties shall bear the cost of the appeal.
10. Advocate fee, if certified, as per schedule.
11. Decree be drawn up accordingly.

Sd/-
T.P. Sharma
Judge

Sd/-
Inder Singh Uboweja
Judge

Padma