

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.381 of 2014

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Ashok Kumar Chaurasia, son of Late Dashrath Pd. Chourasia, resident of village - Kirani Ghat Poolpar, P.S. – Kotwali, district – Gaya.

.... Appellant

Versus

Smt. Punam Devi, wife of Ashok Kumar Chaurasia, R/o – Mohalla – Kiranighat Poolpar, P.S. – Kotwali, district – Gaya. At present R/o – Mohalla – Udantpuri Garh Par, P.S. – Biharsharif, District – Nalanda.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Satya Veer, Advocate

For the Respondent/s : Mr. Rabindra Kr. Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

6. 19-07-2016

Interlocutory Application No. 1207/2015 has

been filed for condonation of delay in filing the Miscellaneous Appeal is condoned in the circumstances as, first, the Criminal Revision was filed, which by order of this Court was converted into Miscellaneous Appeal. Hence, the delay in filing of Miscellaneous Appeal is condoned.

As the sole contesting respondent has appeared on notice, heard the parties.

The appellant had filed the suit for dissolution of marriage under Section 13 of the Hindu Marriage Act on the ground of cruelty and adultery. It is not in dispute

that the marriage between the parties had been solemnized in 1982 and this Matrimonial Case was instituted in 2009 i.e. after 25 years of marriage. As to the allegation of living in adultery, except the verbal statement of the husband, there is no other truth. To the contrary, the witness in support of the wife, being the son of the couple, clearly shows that it is the appellant who had been cruel to the wife and had thrown her out of the house. For allegation of cruelty or for adultery, there has to be sufficient evidence in support of the allegation. There are serious allegations against the wife which is upon her moral integrity as well, which cannot be taken lightly.

In absence of evidence, we find no reason to interfere with the judgment and order dated 22.05.2012 passed in Matrimonial Case No. 78/2009 by the learned Principal Judge, Family Court, Gaya.

This appeal is, consequently, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

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