

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.162 of 2014

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Satrughan Prasad, Son of late Lakan Prasad, resident of Ali Nagar, P.S. Biharsharif,
District Nalanda.

.... Opposite Party- Appellant

Versus

Rajni Kumari, wife of Shatrughan Prasad, C/O Nand Kishore Prasad Gupta,
Resident Of T.B. Hospital , P.O. Koilwar, P.S. Koilwar, District Bhojpur (Ara)

.... Petitioner-Respondent

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Appearance :

For the Appellant : Mr. Anil Kumar Singh, Advocate
Mr. Manoj Kumar, Advocate

For the Respondent : Mr. Vivek Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 08-03-2016

I.A. No.523 of 2016

This application is for condonation of delay of 106 days
in filing of the present appeal against an order passed by the Principal
Judge, Family Court, Ara, Bhojpur, on 28th October, 2013 in Divorce
Case No.90 of 2012.

The appellant has sought condonation of delay for the
reason that he was suffering from jaundice; therefore, he could not
contact his advocate earlier in time.

For the reasons mentioned in the application, we deem it
appropriate to allow the application for condonation of delay. The
delay in filing the present appeal is condoned.

I.A.No.523 of 2016 stands allowed.

M.A.No.162 of 2014

The present appeal is directed against the order passed by the learned Principal Judge, Family Court, Ara, Bhojpur on 28th October, 2013 in Divorce Case No.90 of 2012 whereby an application to seek dissolution of marriage by the wife was allowed on the ground that the husband appellant has treated his wife-respondent with cruelty.

Admittedly, the marriage took place between the parties on 07.07.2002 at Samstipur and out of their wedlock two sons were born, who are now aged 6 ½ years and 4 ½ years.

The grievance of the wife-respondent was that soon after the marriage, unfortunately, the father of the husband- appellant died, but she was blamed for the death and the loss of business. She alleged that husband started drinking and under the influence of liquor, he used to misbehave with her. It is also alleged that the appellant has given her beating in public place and that on one day, the appellant poured kerosene on her with the intention to burn. Another time, when she was making tea on L.P.G. stove, he tried to kill her.

On the other hand, the appellant denied the allegations. He denied that he ever had liquor or he ever misbehaved with his wife. After the death of his father, the entire financial burden came on him. Since she was coming from a better background than him and her expenses were more, she was demanding more money than what he

was earning due to which he did not fulfill her demand. He denied that he ever poured kerosene on her or tried to burn her while she was making tea on L.P.G. stove.

The wife produced P.W.1. Awadh Kumar, P.W.2. Shrawan Kumar, her brothers, P.W.3 Nageshwar Rai who is the neighbour of her father, whereas she herself has appeared as P.W.4. On the other hand, the husband had appeared as his own witness and produced witnesses, namely, D.W.1 Jai Prakash Verma, D.W.2 Rajendra Prasad.

After considering the evidence led by both the parties, the learned trial Court found that the stand of the wife is believable and consequently passed an order of dissolution of marriage. It also granted Rs.2000/- as maintenance to her and Rs.1500/- per month maintenance to each of the two children. Still aggrieved against the order passed by the Family Court, Ara, Bhojpur, the appellant-husband is in appeal before this Court.

Learned counsel for the appellant has vehemently argued that the appellant is ready and willing to maintain her wife and that the allegations levelled against him are not proved in accordance with law. It is also contended that the amount of maintenance awarded is highly inflated and not tenable in law.

The learned trial Court has recorded a categorical finding

that the appellant has treated his wife with cruelty. The allegation of cruelty stands proved by the testimony of the respondent herself corroborated by the statements of her brothers and a neighbour. Since the wife is not possessed of sufficient means, she has been rightly granted maintenance which cannot be said to be excessive in any manner. Since the two children are admittedly born out of the wedlock, the appellant is bound to maintain them. It may be noticed that at no stage of the proceedings, the appellant had sought custody of the children.

In view thereof, we do not find any merit in this appeal.

The same thus stands dismissed.

(Hemant Gupta, J)

(Ramesh Kumar Datta, J)

Sunil/-

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