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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment reserved on : 23.11.2016*

Judgment delivered on : 30.11.2016

+ MAT.APP. 18/2009

MRS. ARCHANA AGGARWAL Appellant
Through Appellant in person.

versus

SURESH JINDAL Respondent
Through Mr. Umesh Mishra, Advocate with
respondent

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 This appeal assails the judgment dated 24.09.2009 passed by the learned District Judge wherein the petitioner-Suresh Jindal (hereinafter referred to as the 'petitioner') who had sought divorce under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955 (hereinafter referred to as the HMA) against his wife Smt. Archana Aggarwal (hereinafter referred to as the respondent) had been granted a decree of divorce on both the aforementioned grounds.

2 This appeal has been filed by the wife. She is aggrieved by the findings returned by the Trial Court.

3 The parties had been married according to Hindu rites and ceremonies

on 20.06.1995 at Delhi. Their marriage was consummated. One male child namely Ashutosh was born out of their wedlock on 27.6.1996. The contention of the husband was that after the solemnization of marriage, the respondent all along treated the petitioner with cruelty and deserted him w.e.f. 22.06.1997 to October, 1999. She did not allow their mother to live in the matrimonial home and unnecessarily made it a prestige issue and many a times, left the matrimonial home on this pretext. After the death of his elder brother (Ram Bhagat) in January, 1997, his mother who was earlier living with Ram Bhagat became anxious and wanted to live with the petitioner and enjoy his company as also the company of her grandchild but the respondent did not permit his mother to stay with them as a result of which his mother was compelled to stay with his uncles and relatives. His mother felt neglected. Even when his mother used to come to his house on a transitional visit she was treated badly. The brother of the respondent always added fuel to the fire and instead of trying to dispel the duel which had arisen between the parties, he would always enlarge it. The respondent left the matrimonial home in June 1997 leaving their seven month old child in the company of her husband. However with the intervention of the well-wishers in the family, she agreed to return back after a period of two months on the

assurance that she would reform herself. She however continued to remain arrogant. She insisted on celebrating their marriage anniversary and birthday of their child which fell in June, 1997 notwithstanding the fact that the elder brother of the petitioner had passed away only in January, 1997 and the petitioner was not inclined to carry out any celebrations in his house for a period of one year which he wanted to treat as mourning period on account of the death of his brother. Respondent finally left the matrimonial home on 04.12.2000 along with their child and all costly items including jewellery. Thereafter all efforts to bring back the respondent to the matrimonial home failed.

4 Further submissions in the petition disclose that the respondent lost no opportunity in degrading the petitioner and depicting him as a greedy dowry monger. She filed a maintenance petition before the concerned Court under the Hindu Adoption and Maintenance Act on 26.06.2000 and the allegations made against the respondent were not only coarse but damaged his repute. Present petition was accordingly filed seeing a divorce on the grounds of cruelty and desertion.

5 In the written statement filed by the respondent, she had controverted these allegations. Her contention was that the petitioner was taking

advantage of his own wrongs. It was denied that the respondent did not allow the mother of the petitioner to stay in their matrimonial home. There was no lapse on the part of the respondent. The petitioner and her mother treated her with cruelty and turned her out from her matrimonial home on 04.12.2000 at 11:00 PM on account of an illegal demand of Rs.1 lac which the respondent was unable to meet. It was denied that the respondent did not like the idea of her mother-in-law staying in the house and made it a prestige issue; the respondent being a sensitive and educated lady had always given full respect and regard to her in-laws. On 18.08.1995, her mother-in-law came to live with the respondent and her husband at their residence at Sector-8, Rohini, Delhi. On the death of Ram Bhagat on 24.01.1997, the petitioner and the respondent had gone to their village Chirry along with their son where they stayed for 13 days but they came back unaccompanied with their mother as she wished to stay back in the village. The respondent respected her mother-in-law and always welcomed her with a open heart; she had never objected to her mother-in-law staying with them. It was denied that her brother had aggravated feud between the parties. It was in fact her brother who is now looking after her and her child as the petitioner has neglected them. It was denied that the respondent ever treated the petitioner

with dis-regard or in any manner tried to lower his reputation. Further submission being that on the occasion of first month of the bereavement of her brother-in-law she along with her husband and child had again gone to their native village at Chirry. At that time, her in-laws abused her and her family; her sisters-in-law namely Munni and Indro gave beatings to her and this was primarily for the reason that they could not settle their widowed bhabhi Nirmala with her husband. The next day, the respondent had no option but to leave the place along with her minor son and she came to Delhi for shelter in her parents' home. It was denied that the respondent was arrogant. It was denied that the respondent had ever asked the petitioner to have any celebratory function in the month of June, 1997; submission being that there was no question of her asking to do so as she was not in her matrimonial home at that time; she was forced to leave the matrimonial home in the last week of April, 1997 and she lived with her parents up to 14.01.1998. It was denied that the respondent had left the matrimonial home in December, 2000 along with her jewellery. She had been coerced to leave the matrimonial home with nothing in her hands. In fact at that day i.e. on 04.12.2000, the sister of the petitioner Indro and husband Lekhraj had came to the house of the petitioner asking the petitioner to arrange Rs.1 lac for the

marriage of their elder daughter. On the respondent being unable to do so, the respondent was beaten and turned out at 11:00 PM along with her son; petitioner just had her wearing apparel upon her. Further defence being that after the death of Ram Bhagat (elder brother of the petitioner), the entire family of the petitioner i.e. his sisters and brothers-in-law had also compelled the petitioner to keep Nirmala as his second wife so that they would then not have to part with the share of Ram Bhagat in their ancestral properties. It was denied that the respondent had treated the petitioner with cruelty or at any point of time or willfully deserted him; she had been forced to leave the matrimonial home only on account of the acts of the petitioner.

6 Replication was filed denying the averments made in the written statement and reiterating the allegations as set out in the petition. The defence of the respondent that the parents and siblings of the petitioner had compelled him to keep Nirmla (widow of Ram Bhagat-his bhabhi) as a second wife was extremely traumatic to the petitioner as he was always treated his bhabhi with respect and she was looked upon as a mother figure. Moreover, Smt. Nirmla had already got married and basis of this story built up by the respondent was again proved to be false.

7 The Trial Court had framed three issues. The first issue was on the

ground of cruelty as contained in Section 13 (i) (1a) of the HMA. The second issue was on the ground of desertion as contained in Section 13 (i) & (ib) of the HMA. The third issue was whether the petitioner was entitled to any relief.

8 Evidence was led by the petitioner alone. He examined three witnesses. He examined himself as PW-1. He reiterated the averments made in the petition. He was subjected to a lengthy cross-examination. He admitted that he had filed a complaint under Section 500 of the Indian Penal Code (IPC) against the respondent on the ground of defamation. It is not in dispute that this complaint stood dismissed by an order dated 28.09.2007. PW-1 admitted that he had also filed a complaint under Section 340 of the Cr.PC read with Section 468/471/420 of the IPC. The fact that these proceedings also stood dismissed is admitted. He admitted that the respondent had not filed any complaint against him. He admitted that the child of the parties is living with the respondent since 04.12.2000. Ex.PW-1/1 was proved in the course of the proceedings which is an agreement/undertaking signed by the respondent agreeing to return back to the matrimonial home. It was denied that this agreement had been got signed by the respondent forcibly. He admitted that he is a Chartered

Accountant. He admitted that he was living in Delhi Since the year 1989 and started living in E-20, Rohini from November, 1999. He admitted that he had got a ration card of his family prepared in the month of January/February, 2000 and the name of his mother found mentioned in the said ration card. He denied the suggestion that the respondent had not made false allegations of a relationship of the petitioner with his bhabhi Nirmala. He denied the suggestion that the respondent had not treated PW-1 with cruelty or she has not willfully deserted him.

9 PW-2 (Vijender Singh) was a neighbor of the petitioner. His testimony was largely to the effect that the respondent was short tempered and arrogant by nature. In December, 2000, the father and brother of the respondent had had a quarrel with the petitioner; PW-2 had tried to intervene but to no avail. This witness was also subjected to a lengthy cross-examination. His cross-examination does not really touch upon the gist of the dispute between the parties; it appears to be of little value.

10 PW-3 was Lekhraj. He was the brother-in-law of the petitioner. His testimony was also largely premised on the nature and character of the respondent which was to the effect that she was an arrogant lady; she did not adjust with the petitioner. This witness was also subjected to a lengthy

cross-examination. He denied the defence sought to be set up by the respondent that there any talk of marriage of the petitioner with Nirmala, (the widow of Ram Bhagat). He denied the suggestion that there was any question of a marriage proposal of Nirmala with the petitioner or any material benefit would have accrued to the petitioner if they had got married or any property of deceased Ram Bhagat would have then come to the share of the petitioner. He denied the suggestion that he had ever came to the matrimonial home of the parties along with his wife and had made a demand of Rs. 1 lac which was the ultimate cause of the respondent leaving the matrimonial home on 04.12.2000. He denied the suggestion that he had visited the house with his wife on the said date. He denied the suggestion that he is deposing falsely.

11 The respondent did not lead any evidence.

12 Parties have filed their written submissions. The appellant has argued in person. Her written submissions which run into several pages have also been perused. Her submission is that the Trial Court has not considered the contention of the parties correctly and even if the respondent had not led any evidence, it was for the petitioner to have established his case and stood on his own legs; he has failed to do so; he has failed to prove that the

respondent was guilty of either cruelty or of desertion; these are general allegations only. The factual aspects have not been considered in the correct perspective and the evidence has not been correctly appreciated. The appellant has placed reliance on a judgment in Vishnu Dutt Sharma Vs. Manju Sharma delivered by the Apex Court on 27.02.2009. Submission being that the Apex Court had noted the legal position which was to the effect that an irretrievable break down of marriage is not permissible as a ground of divorce under the HMA but the Trial Court has gone on to grant divorce to the petitioner husband noting that the marriage had broke down irretrievably. Submission being that on this ground alone, the judgment is liable to be set aside.

13 The respondent has refuted these allegations. He has also filed his written submissions. His first submission is that the respondent has not lead any evidence and as such all allegations as made in this petition which have been reiterated on oath by the respective witnesses of the petitioner stands proved. The credibility of these witnesses has not been tarnished in their cross-examination. The impugned judgment does not suffer from any infirmity. Not only has the ground of cruelty qua the petitioner been proved but desertion also stands proved.

14 Arguments have been heard. Trial Court record has been requisitioned and the same has been perused.

15 Qua the issue of cruelty, it would be relevant to note that the word ‘cruelty’ has not been defined in the HMA. It is in the course of judicial pronouncements that the definition of this word has been expounded. ‘Cruelty’ is no longer confined to a physical state; it includes a mental cruelty as well. What is mental cruelty has also been the subject matter of discussion in various pronouncements of the Apex Court. ‘Cruelty’ as defined under Section 13 (i) (a) of the HMA would thus be of such a character as to cause a reasonable apprehension in the mind of the party that it would be harmful and injurious for him to live with the estranged spouse; it is that conduct which inflicts upon the other such a mental pain and suffering as it would make it not possible for the party to live with the other; social status, education level of the parties, the society they move in are some of other factors to be taken into account to arrive at a conclusion whether there has been a cruelty vis-à-vis the parties.

16 Applying the aforementioned definition to the facts of the present case, this Court is of the view that two instances of cruelty do stand proved by the petitioner and against the respondent.

17 The petitioner (PW-1) in his testimony has reiterated that his mother was not permitted to live with his family. His mother was earlier living with his elder brother Ram Bhagat. Ram Bhagat had expired in January, 1997. Thereafter the petitioner wanted to come and live with her in his home in order she could enjoy the company not only of the petitioner, her daughter-in-law but also of her growing grandson. She was not permitted to do so by the respondent. This averment has been highlighted by the petitioner in various parts of his testimony and is a reiteration of the allegations contained in the petition. In his lengthy cross-examination, what has been brought on record is that a ration card in the name of the petitioner and his family which included his mother at his address was prepared in January/February, 2000. This document has not been proved. It has not been brought on record. On a query put to the learned counsel for the respondent, she admits that this document was not put to PW-1 in his cross-examination. Be that as it may, the best case of the respondent is that the ration card of the family evidenced that the mother was also drawing her ration from the address of the petitioner w.e.f. January/February, 2000. The case of the petitioner does not rest here. The case of the petitioner is that his elder brother had died in January, 1997 and from that period onwards, he wanted his mother to come and live with

him but was not permitted to do so. This has been categorically averred by him. There is no cross-examination on this aspect of the matter. PW-1 has not been cross-examined and neither his credibility been tarnished to the effect that this is not a correct factual averment. It is also the case of the petitioner that prior to January, 1997 i.e. after his marriage to the respondent (20.06.1995), he wanted his mother to live with him but the respondent was averse to the idea and did not permit his mother to join him in the matrimonial home. Thus prior to January, 1997 as also post January, 1997 (this would be the relevant date being the date of the death of the elder brother of the petitioner Ram Bhagat), the petitioner expressed his desire that his mother should live with him but was not permitted by the respondent. There is no cross-examination whatsoever of PW-1 on this period i.e. between 20.06.1995 (date of marriage of the parties) up to January, 1997 when as per the petitioner his wife did not permit his mother to live in their matrimonial home. At the cost of reputation, even post January, 1997, there is no cross-examination of PW-1 on this issue that his mother was disallowed by the respondent to live with her son. The defence of the respondent on this score being only a reliance upon the ration card. This reation card prepared w.e.f. January/February, 2000 at best would evidence

that his mother was drawing ration on this card and thus living with the parties. It would again be relevant to note that this ration card has not seen the light of the day. It has not been proved. The respondent did not lead any evidence.

18 Thus a wholesome reading of the testimony of PW-1 on this score that his mother was not permitted by the respondent to live with the parties stands established.

19 A Bench of the Apex Court in Civil Appeal No.3253/2008 Narendra Vs. K. Meena delivered on 06.10.2016 had an occasion to examine such an aspect. The Court was of the view that the constant persuasion by the estranged spouse for getting separated from his family members and constraining him to live separately and only with her was an act of cruelty. The Apex Court had noted that a hindu son has not only a moral but also a legal obligation to take care and maintain his parents when they become old; in normal circumstances, a wife is expected to be with the family of her husband after the marriage; she becomes an integral part of the family of the husband and without any justifiably strong reason, she should not insist that her husband should be separated from his family.

20 This Court notes this ratio. Applying this ratio to the instant case, this

Court is of the view that there was absolutely no justifiable reason on the part of the wife not to allow the mother of the petitioner to live with the family of the petitioner. The fact is that after January, 1997 (death of Ram Bhagat-elder brother of the petitioner), the mother started living in the village Chirry; admittedly before that she was living with her elder son. The obvious desire of the mother would be to live with her second son and not with her brother-in-laws in the village and that too all by herself. She was not permitted to do so. It was a mental torture for the petitioner in not permitting him to live with his family and especially an old aged widowed mother who in these circumstances was forced to live in the village after the death of her elder son with whom she was living earlier.

21 This Court is thus of the firm view that the act of the respondent in not permitting the aged widow mother of the petitioner to live in their matrimonial home was definitely an act which amounted to a cruelty within the definition of 'cruelty' as has been laid down by the Apex Court in its various pronouncements. This would be not only a case of extreme mental torture and tension for a son who is not permitted to keep in his mother in him home but an act which would probably over the years build up a irrevocable apprehension in the mind of the petitioner that it may not be

possible for him to live with such an obstinate spouse.

22 This is the first act of cruelty which has been established qua the respondent.

23 There is yet another instance of cruelty which this Court notes. This is qua a defence adopted by the respondent vis-à-vis an alleged illicit relationship which the petitioner may have had with his widowed bhabhi Nirmala. It is an admitted fact the elder brother of the petitioner had died in January, 1997. Nirmala was the bhabhi of the petitioner. The Trial Court had extracted a paragraph from the written statement of the respondent. Relevant would it be for this Court to extract this paragraph as well; it reads herein as under:-

“In fact, after the death of Shri Ram Bhat, the entire family of the petitioner i.e. his sisters and brother-in-law (jeejas) and mother starting compelling the petitioner to keep the widow Smt. Nirmala as his second wife so that they would not to have part with the assets as well as the share of Shri Ram Bhagat in ancestral properties to Smt. Nirmala. The averments made by the respondent in the maintenance suit are correct.”

24 The defence of the respondent thus being that the mother and other relatives of the petitioner were forcing the petitioner to have a second wife

and to marry Nirmala. This allegation is wholly ill-founded. Not only has this been denied by the petitioner but it is also come on record that Nirmala was re-married within less than one year from the date when she became a widow. The petitioner had no connection with that re-marriage.

25 The Apex Court in 2003 (6) SCC 334 Vijaykumar Ramchandra Bhate Vs. Neela Vijaykumar Bhate had an occasion to examine as to whether the accusation by one spouse qua the other would amount to a mental cruelty within the definition of Section 13 (1)(a) of the HMA and had noted herein as under:-

“The question that requires to be answered first is as to whether the averments, accusations and character assassination of the wife by the appellant husband in the written statement constitutes mental cruelty for sustaining the claim for divorce under Section 13(1)(i-a) of the Act. The position of law in this regard has come to be well settled and declared that leveling disgusting accusations of unchastity and indecent familiarity with a person outside wedlock and allegations of extra marital relationship is a grave assault on the character, honour, reputation, status as well as the health of the wife. Such aspersions of perfidiousness attributed to the wife, viewed in the context of an educated Indian wife and judged by Indian

conditions and standards would amount to worst form of insult and cruelty, sufficient by itself to substantiate cruelty in law, warranting the claim of the wife being allowed. That such allegations made in the written statement or suggested in the course of examination and by way of cross-examination satisfy the requirement of law has also come to be firmly laid down by this Court. On going through the relevant portions of such allegations, we find that no exception could be taken to the findings recorded by the Family Court as well as the High Court. We find that they are of such quality, magnitude and consequence as to cause mental pain, agony and suffering amounting to the reformulated concept of cruelty in matrimonial law causing profound and lasting disruption and driving the wife to feel deeply hurt and reasonably apprehend that it would be dangerous for her to live with a husband who was taunting her like that and rendered the maintenance of matrimonial home impossible.”

26 Applying the said ratio to the facts of the instant case this Court holds that this unsubstantiated allegation leveled by the respondent wife that the mother and other relatives of the petitioner had insisted that Nirmala should be taken as a second wife of the petitioner is nothing short of an allegation; it amounts to a character assassination of the petitioner.

27 The respondent did not prove her case by leading any evidence. The averment of PW-1 always was that he treated his bhabhi Nirmala as his mother; she had got remarried after the death of his brother; there was no occasion for him and his sisters ever to tell the petitioner to keep Nirmala as his second wife. This part of the testimony of PW-1 remains unchallenged.

28 This Court is thus of the view that this ill-founded and baseless allegation is yet another act of mental cruelty which has been committed by the respondent upon the petitioner.

29 The first issue stands proved by the petitioner. The respondent is guilty of acts of cruelty qua the petitioner within the definition of Section 13 (1)(a) of the HMA. The findings of the Trial Court returned on issue No. 1 call for no interference.

30 Qua issue No. 2 on the point of desertion pleaded by the petitioner as contained in Section 13 (1)(b) of the HMA, this Court is of the view that the Trial Court has examined the legal aspect in the correct perspective. There is no doubt that there are certain ingredients which have to be fulfilled which includes (i) the factum of separation; (ii) the intention to bring cohabitation permanently to an end (animus deserendi); (iii) the absence of consent and (iv) conduct giving reasonable cause to the spouse leaving the matrimonial

home to form the necessary intention. The fact is that the respondent had left the matrimonial home in the intervening period i.e. between 22.06.1997 and returned back to the matrimonial home in November, 1999. This is the case of the petitioner. The case of the respondent is that she had left the matrimonial home in April, 1997 and had returned back on 14.01.1998. She finally left the matrimonial home on 04.12.2000. Noting these submissions, this Court is of the view that these dates may not be the relevant as the parties finally got separated w.e.f. 04.12.2000. This petition was presented on 07.02.2003. A continuous period of two years of a physical separation prior to the filing of the petition stood established.

31 Desertion as a ground for divorce was inserted to Section 13 by the amendment Act 68 of 1976. Prior to this, it was only a ground for judicial separation.

32 The Apex Court in (2002) 2 SCC 73 Savitri Pandey Vs. Prem Chandra Pandey had an occasion to expound this aspect. It had ruled as under:-

“Desertion, for the purpose of seeking divorce under the Act, means the intentional permanent forsaking and abandonment of one spouse by the other without that other’s consent and without reasonable cause. In other

words, it is a total repudiation of the obligations of marriage. Desertion is not the withdrawal from a place but from a state of things. Desertion, therefore, means withdrawing from the matrimonial obligations, i.e., not permitting or allowing and facilitating the cohabitation between the parties. The proof of desertion has to be considered by taking into consideration the concept of marriage which in law legalises the sexual relationship between man and woman in the society for the perpetuation of race, permitting lawful indulgence in passion to prevent licentiousness and for procreation of children. Desertion is not a single act complete in itself, it is a continuous course of conduct to be determined under the facts and circumstances of each case. If a spouse abandons the other in a state of temporary passions for example, anger or disgust without intending permanently to cease cohabitation, it will not amount to desertion.”

33 In the instant case, there was a continuous abandonment by the wife for a period of two years immediately preceding the presentation of this petition (counted from 04.12.2000-undisputed date). Not only was there the factum of a physical separation but the intention to bring cohabitation permanently to an end (animus deserendi) also stood established. It is not the case of the respondent that after 04.12.2000 she had joined the matrimonial

home or made any effort to join the matrimonial home. On the other hand, the petitioner (PW-1) and his brother-in-law (PW-3) had on oath deposed that efforts were made even thereafter to bring back the respondent to matrimonial home but this was to no avail. The absence of consent and conduct giving no reasonable cause to the spouse leaving the matrimonial home to form such an intention also stood fully established. This is clear not only from the testimony of PW-1 himself but also his neighbour and brother-in-law who have been examined as PW-2 & PW-3. In their versions both PW-2 and PW-3 who had both stated that on the fateful day i.e. 04.12.2000, the father and brother of the respondent after a heated exchange of arguments with the petitioner and had taken the respondent back to their home; he would not send his daughter back even if the petitioner touched his feet. He specifically deposed that he had not gone to the matrimonial home of the parties on 04.12.2000 either by himself or accompanied by his wife Indro. He denied the suggestion that he had gone to the house of the petitioner along with his wife asking the respondent to arrange a sum of Rs.1 lac for the marriage of his daughter. Thus the version of the respondent that on that date i.e. 04.12.2000, a demand of Rs.1 lac was made by PW-3 and his wife upon the respondent was not proved. At the cost of repetition, there

was no evidence led in the affirmative by the respondent qua this version. There was thus no justifiable cause for the respondent to leave the matrimonial home and desert the petitioner. The respondent had deserted the petitioner for a continuous period of two years without any justifiable excuse. This ground as contained under Section 13 (1)(b) of the HMA also stands proved.

34 This Court also notes the contrary/different pleas which have been taken by the respondent. In her petition under Section 18 of the Hindu Adoption and Maintenance Act (Ex.PW-1/2), her submission is that immediately after the phera when she had gone to her matrimonial home, her mother-in-law and other in-laws tortured her for dowry and pressurized her to bring additional dowry articles like a coloured television, refrigerator, etc. Further averment being that on 18.08.1995, the petitioner and the respondent along with their child had shifted in a rented accommodation at Sector-8, Rohini where the mother-in-law's behavior becomes more and more aggressive and she started taunting and abusing her parents. These averments which have been made in this petition (Ex.PW-1/2) do not find mention in the written statement filed by the respondent. Although there has been a denial qua the cruelty meted out by her to the petitioner, there is no

avermment to the effect that immediately after her phera when she came to the matrimonial home, she was abused and mentally tortured by her mother-in-law and her sisters-in-law. In sub-para (ii) and (iii) of para 5 of the written statement, it has been stated that on 18.08.1995, the mother of the petitioner came to live with them in their matrimonial home at Sector-8, Rohini but the rest of the written statement is conspicuously absent on the behavior of the mother-in-law in that period; although in Ex.PW-1/2, it has been specifically averred that thereafter her mother-in-law's behavior became aggressive and she started taunting and abusing her parents; this written statement is silent on this aspect. The Court notes this stand of the respondent; these submissions in the written statement qua her version in Ex. PW1/2 reflects upon the shifting stands adopted by the respondent which tarnish her defence. Thus, the argument of the petitioner that she had tarnished the credibility of the witnesses of the petitioner entitling her to establish that the petitioner has failed to prove his case is negatived.

35 This Court has been informed that the petitioner is drawing maintenance under Section 18 of the Hindu Adoption and Maintenance Act and a sum of Rs.10,000/- is being paid to the petitioner and Rs.7,500/- as school expenses of the child of the parties. The child of the parties is now an

adult. He is stated to be 20 years of age and is studying in the IIT. Parties are living separately since the year 2000. Sixteen years have gone by. Parties had been called in chambers on various occasions and efforts had been made even by this Court (before hearing the appeal on merits) to find out if there was any via-media by which the parties can be brought together. It appeared to be fruitless.

36 This Court is of the view that the findings returned by the Trial Court holding that the petitioner was entitled to divorce both on the grounds as contained in Section 13 (1)(a) and (1) (b) of the HMA stands proved does not call for any interference.

37 Appeal is without any merit. Dismissed.

INDERMEET KAUR, J

NOVEMBER 30, 2016

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