

\$~10

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

+ **MAT.APP.(F.C.) 74/2015**

RAJESH CHAWLA

..... Appellant

Represented by: Ms.Bharti Sharma, Advocate with
Appellant in person

versus

ANUPAMA

..... Respondent

Represented by: Ms.Alpana Pandey, Advocate with
Respondent in person

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

%

08.11.2016

1. Having heard learned counsel for the parties and having perused the evidence led by the parties we are constrained to dismiss the instant appeal for two reasons.
2. The evidence brings out that the appellant was fairly ill-equipped to maintain a wife and a child. His educational qualification being Class VI pass. He got married on the strength of a family business evidenced from the wedding card printed by the family of the appellant, Mark 'A' which under the caption 'RSVP' records '*Nand Lal Bali Ram & Co.*', '*Rajesh Kumar Jagdish Kumar*' B-768, B-821, New Sabzi Mandi Azarpur, Delhi-33, but when it came to meet the family expenses, he claimed, and we refer to his cross-examination, that performing a field job supplying fruits to vendors he was earning only ₹5,000/- per month. It is apparent that the appellant

misled the respondent regarding his true financial position and it is in this backdrop we find sustenance to the claim of the respondent that her jewellery had to be pledged by her husband to take a loan. After the marriage the couple had to shift to a rented accommodation and found it extremely difficult to make their ends meet. Her allegations that her in-laws and her husband harassed her for dowry also would be believable keeping in view said fact and additionally that she has successfully withstood the test of cross-examination. The words spoken to her, which she has disclosed in the petition seeking divorce on ground of mental cruelty, and in respect whereof she has deposed on oath have to be believed. We ignore the evidence of the appellant's sexual perversity adversely affecting the child born to the couple and the school teachers complaining that the son was showing bad behaviour towards the female students. But even excluding the same, there is good evidence to establish the claim of the wife on the other allegations of cruelty. In this connection it is important to note that in his cross-examination the appellant stated that his income was ₹5,000/- per month and he admitted that rent paid was ₹4,500/- per month. It is obvious that the couple and the child were not living on ₹500/- per month. It is apparent that the respondent's parents had to chip in.

3. The second reason is the pleadings in the written statement, which have not been good by the appellant. These pleadings themselves constitute cruelty. The pleadings would be : (i) in para 1 of the preliminary objections that the respondent married him with the intention to extort money from him; (ii) in para 3 of the preliminary submissions that since from the day of the marriage the respondent never behaved like a decent wife and on every occasion disturbed the peace and harmony of the house; (iii) the averment in

para 4 of the preliminary submissions that the respondent and her parents used to pressurize the appellant and even tortured him to transfer all his funds in the name of the respondent's brother.

4. On the former aspect i.e. proof of cruelty by the appellant inflicted upon the respondent, learned counsel for the appellant very fairly concedes that not even an attempt has been made to discredit respondent's testimony by effectively cross-examining the respondent and for which the only argument advanced is that fault by a counsel should not visit the client with penal consequences.

5. The argument is noted and rejected for the reason, apart from not challenging crucial aspects of the testimony of the respondent we find that the basic backdrop is a misrepresentation made regarding appellant's stake in a family business. The appellant had none. Of his own admission he was earning a meagre sum of ₹5,000/- per month. ₹4,500/- was being incurred towards rent. Obviously kitchen expenses were being met through the finances provided by the parents of the respondent and by pawning her jewellery.

6. The appeal is dismissed and the impugned decree obtained by the respondent dissolving the marriage by grant of decree of divorce on account of cruelty is affirmed.

7. No costs.

PRADEEP NANDRAJOG, J.

YOGESH KHANNA, J.

NOVEMBER 08, 2016

mamta