

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.551 of 2014

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Ranjeet Kumar Pandey @ Pappu, son of Nawal Kishore Pandey, resident of village Salakhua, P.O. Aphor, P.S. Amnour, District Saran at Chapra

.... Appellant

Versus

Priyanka Devi, wife of Ranjeet Kumar Pandey, daughter of Baleshwar Thakur, at present of village Chainpur, P.S. Rasulpur, P.S. Amnour, District Saran at Chapra.

.... Respondent

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Appearance:

For the Appellant : Mr. Janardan Prasad Singh, Sr. Advocate
Mr. Arbind Kumar Singh, Advocate

For the Respondent : Mr. Anant Kumar Bhaskar, Advocate
Mr. Sanjay Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 23-01-2017

Heard learned counsel for the appellant and learned counsel for the contesting respondent.

2. The appellant is the husband, who has moved the Principal Judge, Family Court, Saran at Chapra with a prayer for dissolution of the marriage under Section 13 of the Hindu Marriage Act, 1955. The sole respondent is the estranged wife. The facts which we are taking note of for the purpose of disposal of this appeal are not in dispute. They are relevant for the purpose of the plea of cruelty as raised by the husband-appellant. The parties were married on 11.05.2006. At that time the appellant was working in a weaving mill in Baddi in the District of Solan, Himachal Pradesh, as a labourer. After



marriage, though the marriage was consummated there was no child for a long time. There were medical tests allegedly carried out and progressively the behaviour of the wife has changed and she started totally neglecting the appellant and ultimately abandoned the husband and walked away with all money and jewelry, threatening him that she would file criminal case, if he did anything. Having lost the company of his wife, the appellant then filed the present proceedings, wherein apart from other things a specific plea of cruelty was taken. It was pleaded that the husband was treated with cruelty, apart from the fact that she had abandoned his company. Subsequently it was also brought on record which was not disputed by the wife, that the opposite party soon after coming to know about the divorce proceedings, as instituted by the husband, the opposite party-wife, who had been staying with her father then lodged a criminal complaint against the appellant and his other family members including his parents, *inter alia*, under Section 498A of the Indian Penal Code alleging that for non-fulfillment of dowry demand the appellant and others had attempted to kill her. Upon such prosecution being launched not only on the appellant, but also on his parents, all were arrested and were in judicial custody for a considerable period. It was pleaded before the trial Court that this independently constitutes cruelty as well.

3. The trial Court, even though cited the decision of the Supreme Court in this regard, has noted the facts in detail. It is no



doubt that after the divorce case was filed, the wife launched criminal prosecution against the appellant and his family members including parents. The appellant and his parents were in custody for a considerable period. Ultimately during the pendency of this proceeding before the Family Court, a criminal Court acquitted the appellant and his parents of the charges of demand of dowry or torture for non-fulfillment thereof. Notwithstanding the aforesaid facts, the trial Court did not grant a decree of divorce. Hence this appeal.

4. We have heard learned counsel for the parties. The appellant is still working as a daily wager in one or other factory, wherever work is available. Apart from being humiliated, on his behalf it is submitted that the relationship of husband and wife under Hindu marriage is sacrosanct, it has to be respected by both husband and the wife. But if the wife resorts to criminal proceedings and gets the husband arrested or the husband's parents arrested, it would lead to irretrievable breakdown of the marriage relationship which can hardly be forgiven or repaired or forgotten. It has an enduring effect of bitterness where the essence of conjugal relationship vanishes.

5. We have considered the matter. It is not in dispute that after the appellant filed a case for divorce, the respondent wife filed a case under Section 498A of the Indian Penal Code against the appellant and his parents, all of whom were arrested and kept under judicial custody for a considerable period, before being finally acquitted. This act of initiating a false criminal case would clearly constitute cruelty, as



has been noticed in the case of *K. Srinivas Rao vs. D.A. Deepa*, since reported in (2013) 5 SCC 226 which was followed in the case of *K. Srinivas vs. K. Sunita* (2014) 16 SCC 34.

6. That being the situation, we are unable to uphold the judgment and decree of the trial Court in dismissing the suit for dissolution of marriage even though it noticed the aforesaid facts. We accordingly allow this appeal, set aside the judgment and decree. The appellant’s suit for dissolution of marriage is consequently allowed. Let a decree of divorce be accordingly prepared and issued.

7. Before parting we may notice that the parties are agreed that after considering the facts in other related proceedings, the appellant has been directed to pay a monthly maintenance of Rs. 2,000/- to the respondent-wife, which is being paid.

8. In view of the aforesaid, we do not pass any other order for permanent alimony. The aforesaid amount of monthly maintenance would be continued to be paid.

(Navaniti Prasad Singh, J)

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
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