

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 49 of 2015**

- Hemant Kumar Jangade, aged 32 years, son of Kamal Singh Jangade, resident of village Bhendra, P.S. Bhakhara, Tahsil Kurud and District Dhamtari (C.G.)

---- Appellant**Versus**

- Smt. Sharda Jangade, aged about 34 years, Daughter of Gaurkaran Lahre, resident of old house of Sohan Sahu beside Danteswari Mandir village Belargaon, P.S. Sihava, Tahsil Nagri, District Dhamtari (C.G.)

---- Respondent

For Appellant	:	Mr. Ritesh Verma, Advodate
For Respondent	:	Mr. Ravi Maheshwari, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Arvind Singh Chandel

Order On Board By
Justice Prashant Kumar Mishra

26/07/2017

1. The appellant is aggrieved by the dismissal of his suit for grant of divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 (henceforth 'the Act').
2. The suit was preferred on the ground that after marriage the respondent-wife has treated the appellant-husband with cruelty.
3. It was pleaded by the appellant that the parties were married on 20/09/2004 at a temple and they stayed together only for 15-20 days. The respondent-wife lodged a report under Section 498-A IPC against

the appellant for demand of dowry, wherein the appellant was acquitted of the charge on 18/05/2010. The wife was threatening to commit suicide and also demanding money from the appellant. It was also pleaded that despite the wife residing separately for last 3 years, her household expenditures like purchase of grocery, vegetables and other articles were borne by the appellant. The respondent-wife was creating unpleasant scene in front of his landlord and friends causing embarrassment to the appellant. The respondent-wife also used to humiliate the appellant by using abusive language during the appellant's duty hours in presence of students in the school, therefore, all the above said acts amount to cruelty and the marriage deserves to be dissolved by a decree of divorce.

4. The respondent-wife contested the suit on pleadings that the appellant was ill-treating her by demanding dowry and inflicted physical assault every now and then, for which a report was lodged against him and his relatives for the offence under Section 498-A IPC, however, when the appellant agreed to keep her with him and executed an agreement, the respondent did not depose against him in the criminal case, therefore, he was not acquitted in the criminal case for want of evidence, but it was an outcome of a compromise between the parties. In the agreement, the appellant agreed to keep the respondent-wife with him and he did keep the promise, but after 2-3 days, he again started treating her with cruelty, thus, it was not the respondent who was responsible for the situation and, therefore, the appellant is not entitled to a decree of divorce. She categorically denied that she ever visited

the school and humiliated or embarrassed the appellant in presence of students. According to her, she was ousted by the appellant from the matrimonial house, therefore, she had to reside separately.

5. The trial court dismissed the suit after appreciating the evidence and finding that the appellant-plaintiff's case is not supported with reliable evidence.
6. We have heard learned counsel for the parties and perused the records.
7. From the statement of the appellant himself, it would appear that the marriage was performed in presence of 5-6 relatives of either side in a temple by exchanging of garlands. The respondent-wife would admit that in their caste/society there is no ritual of engaging a priest for performance of marriage. The appellant has also admitted in para 15-16 of his cross-examination that before initiation of the criminal case under Section 498-A IPC, he had executed an agreement admitting that he was treating the wife with cruelty and no pressure was created upon him for signing the agreement. It appears that after this agreement, the appellant brought back the respondent-wife to the marital home where they stayed together for 2-3 days and during this period her statement was recorded before the criminal court wherein she deposed that since they have compromised, therefore, she is not willing to make allegation against the appellant. An acquittal on the basis of such statement of the wife, cannot be considered an acquittal on the ground of false implication, therefore, the ground, urged by the appellant that since he was implicated in the false case, the same

amounts to cruelty, is not available to him.

8. The appellant's witness namely – Jeevanlal Dewangan (P.W.1) has not said anything about the allegation that the respondent-wife had humiliated the appellant in presence of students in the school. This witness has admitted that he had never seen the respondent-wife going to the school, where the appellant is posted. This statement has been made in cross-examination despite contrary statement in para 5 of the examination-in-chief. Thus, there is no corroboration to the appellant's evidence that the respondent-wife was creating nuisance causing embarrassment to him by abusing him in the school.
9. The Supreme Court in **Dr. N.G. Dastane v. Mrs. S. Dastane**, (1975) 2 SCC 326, **V. Bhagat v. D. Bhagat (Mrs.)**, (1994) 1 SCC 337, **Sirajmohmedkhan Manmohamadkhan v. Hafizunnisa Yasinkhan and Another**, (1981) 4 SCC 250, **Savitri Pandey v. Prem Chandra Pandey**, (2002) 2 SCC 73, **Gananath Pattnaik v. State of Orissa**, (2002) 2 SCC 619, **Praveen Mehta v. Inderjit Mehta**, (2002) 5 SCC 706, **Chetan Dass v. Kamla Devi**, (2001) 4 SCC 250, **A. Jayachandra v. Aneel Kaur**, (2005) 2 SCC 22, **Naveen Kohli v. Neelu Kohli**, (2006) 4 SCC 558, **Sujata Uday Patil v. Uday Madhukar Patil**, 2007 AIR SCW 986, **Manisha Tyagi v. Deepak Kumar**, AIR 2010 SC 1042 and **Ramchander v. Ananta**, (2015) 11 SCC 539 has laid down the tests and principles as to nature of proof or the extent of cruelty which would furnish the ground for grant of divorce under Section 13(1)(i-a) of the Act.
10. Having seen the records, we are fully satisfied that the appellant has

not been able to make out any such ground and the finding against the appellant recorded by the trial court is fully born out from the record.

11. In view of the above, the appeal, having no substance deserves to be and is hereby dismissed.

Sd/-
Judge
Prashant Kumar Mishra

Sd/-
Judge
Arvind Singh Chandel