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HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal (M) No.98 of 2015

Judgment Reserved on : 27.7.2017

Judgment Delivered on : 11.9.2017

Smt. Neha Sharma, W/o Shri Sohil Sharma, aged about 24 years, Resident of Late Shri Rajkumar Prabhakar, Khursipar, Behind Police Station, Bhilai, District Durg (Chhattisgarh)

---- Appellant

versus

Sohil Sharma, S/o Shri Ramlubhaya Sharma, aged about 29 years, presently working as Technician, C.P.L. 503, Signal Unit Ayanagar, New Delhi, R/o Station Road, Mahasamund, Tahsil and District Mahasamund (Chhattisgarh)

--- Respondent

For Appellant	:	Shri Jitendra Gupta and Shri Jitendra Shukla, Advocates
For Respondent	:	None

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

C.A.V. JUDGMENT

Per Arvind Singh Chandel, J.

1. This appeal under Section 19(1) of the Family Courts Act, 1984 (henceforth 'the Act of 1984') is directed against the judgment and decree dated 22.7.2015 passed in Civil Suit No.55A of 2014 by the Family Court, Mahasamund by which the Family Court has allowed the Respondent/husband's application under Section 13(1) of the Hindu Marriage Act, 1955 (henceforth 'the Act of 1955') for dissolution of marriage with the Appellant/wife.
2. Facts, in brief, as projected by husband Sohil Sharma is that on 12.11.2010, a marriage was solemnised between him and Neha Sharma at Bhilai in accordance with the Hindu rites and rituals prevailing in their caste community. Just next day of the marriage,

it appeared to the husband that the mental condition of his wife is not balanced and she would behave in unusual manner. In the last week of January, 2011, the wife came to Jodhpur to reside with the husband, but she started quarreling with him. She would insist the husband to leave the job of Air Force, reside as a “*Gharjamai*” at her paternal house and do some business there. She had thrown the mobile phone of the husband several times. On 22.4.2012, both were returning from Jodhpur to Mahasamund. All of a sudden, the wife got down from the train at Durg Railway Station and insisted the husband for coming to her paternal house and on his not accompanying the wife she threatened him. On 27.4.2012, the wife made a phone call to the husband and informed him that she is not willing to reside with him and threatened him to implicate him and his family members in a false case of harassment for demand of dowry. On 14.7.2012, the wife was again taken to Jodhpur after being convinced by her mother, but even this time, her behaviour was not usual and she again started quarreling with the husband. On 23.7.2012, she lodged a false report against the husband to the effect that he is mentally unsound. On 8.8.2012, parents of the husband came to Jodhpur and again a false complaint was lodged by the wife against the parents, brothers and aunts of the husband at Jodhpur. After that, she submitted a written statement before Mahila Police Station, Jodhpur seeking no action against the husband and his family members. On 28.12.2012, the wife was taken by the husband to his house at Mahasamund, but no change was seen in her behaviour and she continued to threaten the husband and his family members to implicate them in a false case of harassment for dowry. Finally, on 5.1.2013, the wife, threatening to the husband and his family members, left Mahasamund and went to her paternal house at

Bhilai and is residing there since then. The husband had to face a departmental action due to the false complaint lodged by the wife. A crime under Sections 498A and 323 of the Indian Penal Code was also registered against the husband and his family members. On 28.4.2014, an application for divorce by mutual consent was filed before the Family Court at Mahasamund jointly by the husband and the wife, but, later on, the wife refused to proceed further. Consequently, the said divorce application was dismissed.

3. Case of wife Smt. Neha Sharma is that her husband is mentally unsound, therefore, he would always beat her. He was given treatment in the Air Force Hospital at Jodhpur. She had made her all efforts to maintain good relation with the husband, but it was the husband who would always beat her. She was brutally beaten by the husband due to which she had sustained serious injuries. Therefore, a written complaint was lodged by her. Later on, after the settlement between them, she withdrew the said complaint. The husband left her in her maternal house by assuring that he would take her back after 2-3 days, but, he never returned to take her back. She is willing to live with the husband, but she had been subjected to cruelty for demand of dowry and, therefore, the report was lodged against the husband and his family members.
4. It was submitted by Learned Counsel appearing for the Appellant/wife that cruelty, in fact, had been done upon the wife by the husband and his family members. He further submitted that as per the evidence available on record, it appears that the husband is a patient of mental disorder and his mental condition is not in balance, therefore, he would always beat the wife. He was given treatment in the Air Force Hospital at Jodhpur. These facts are also mentioned in the written statement submitted by the wife.

5. We have heard Learned Counsel appearing for the Appellant/wife and perused the entire record with utmost circumspection. None appeared for the Respondent/husband.
6. Wife Smt. Neha Sharma has examined herself as DW-1. In paragraph 12 of her cross-examination, she has clearly admitted that she did not submit any document relating to the mental illness of her husband. She did not submit any document to show that her husband's mental condition was not in balance and he was diagnosed and treated in the Air Force Hospital at Jodhpur. In paragraph 7 of her deposition, she deposed that at Jodhpur, she alone was residing with her husband. She has also admitted that during that period she had lodged a report against her husband in the Air Force Police Station. She has also admitted that later on she had submitted in writing that she did not want any action against her husband. In paragraph 8 of her examination, she admitted that after the settlement, she never resided at Jodhpur. In paragraphs 9 and 10 of her cross-examination, she deposed that after return from Jodhpur, on 31.12.2011, she along with her husband had gone to her matrimonial house at Mahasamund, where she resided for 3 days only. Thereafter, she returned to her paternal home at Bhilai. Next day, she lodged a written report against her husband and in-laws at the Mahila Police Station at Bhilai alleging demand of dowry.
7. As discussed above, it is evident that the Appellant/wife had lodged a report against her husband regarding his mental condition and also that he was given treatment for mental disorder in the Air Force Hospital at Jodhpur, but, to establish the same, she has not filed even a single document. It has also been submitted that

when she reported against the husband for the first time at Jodhpur, she was residing alone with her husband there. Later on, she withdrew her said complaint. It is evident from the deposition of the wife that on 31.12.2011, she had gone to her matrimonial house at Mahasamund for 3 days only and thereafter she returned to her paternal house at Bhilai. Thereafter, she lodged the First Information Report against her husband and in-laws for demand of dowry, but, in her evidence, she cited no incident of any harassment done during the 3 days when she resided at her matrimonial house at Mahasamund.

8. In **K. Srinivas Rao v. D.A. Deepa, (2013) 5 SCC 226**, it is held that false complaint/criminal proceedings, indecent/defamatory statements made in the complaint singly and cumulatively amounts to mental cruelty warranting grant of divorce. It is further held that making unfounded indecent/defamatory allegations against spouse or his/her relatives in pleadings, filing repeated false complaints or cases in Court, issuing notices or news items which may have adverse impact on business prospects or job of spouse, etc. are all illustrative cases of mental cruelty which would warrant grant of divorce.
9. In **K. Srinivas v. K. Sunita, (2014) 16 SCC 34**, the Supreme Court again held that filing of false criminal complaint against husband and his family members constitutes matrimonial cruelty.
10. In the case at hand also, we find that the wife has made false allegation against her husband regarding his mental condition. She has also lodged an FIR at Jodhpur for the same. Later on, she again lodged a report against the husband and in-laws at

Bhilai for demand of dowry after just 3 days of her return from her matrimonial house. But, in support of all these, she has not led any evidence or cited any incident to show that she was harassed for demand of dowry.

11. In the light of above discussion and the judgments of the Supreme Court, we find that it is the Appellant/wife who has done mental cruelty with her husband. Therefore, we do not find any error in the finding arrived at by the Family Court.
12. Consequently, the appeal is liable to be and is hereby dismissed.
13. A decree be drawn up accordingly.

Sd/-
JUDGE
(Prashant Kumar Mishra)

Sd/-
JUDGE
(Arvind Singh Chandel)