

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.713 of 2014

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Ramshankar Kumar, son of Sukhdeo Prasad Singh, resident of Village Ramdiri,
Tola Nakti, P.S. Mufassil, District Begusarai

.... Appellant/s

Versus

Smt. Anamika Kumari @ Annu, W/o Ramshankar Kumar, resident of Village
Ramdiri, Tola Nakti, P.S. Mufassil, District Begusarai. At present D/o Shri Arbind
Singh, R/o Village Mirganj Near, G.D. College, Begusarai, P.S. Town, District
Begusarai

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Niraj Kumar, Advocate

For the Respondent/s : Mr. Narendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

C.A.V. JUDGMENT

(Per: HONOURABLE JUSTICE SMT. NILU AGRAWAL)

Date: 17-01-2018

This appeal has been preferred by the appellant, who is the husband of the sole respondent Smt. Anamika Kumari @ Annu, against the judgment and decree dated 07.08.2014, passed by the learned Principal Judge, Family Court, Begusarai in Divorce Case No. 51/2012/ 1021/2013 by which petition for divorce filed by the appellant under Section 13(1-a) of the Hindu Marriage Act has been dismissed on the ground that the appellant failed to prove allegation of cruelty against the respondent (his wife).

2. The facts of the case is that the appellant Ramshankar Kumar was married to the respondent on 10.05.2009. After few days she returned back to her parental house and on being asked by the



appellant to come to her matrimonial house, she refused and appellant was also assaulted by the family members of the respondent, against which he lodged Complaint Case No. 388(C)/2012. In the meantime, on 12.04.2010, a male child, namely, Arabh Kumar was born out of the wedlock. Complaint Case No. 347(C)/2012 was also filed against the appellant-husband by the respondent-wife under Section 498-A of the Indian Penal Code. During the intervening period, however, Matrimonial Case No. 131/2010 was also preferred by the appellant for restitution of conjugal rights, which was withdrawn, but the respondent-wife flatly refused to live with the appellant-husband under one pretext or the other.

3. During course of hearing of the present appeal, affidavits have been filed by both parties that both are living separately from March, 2010 and the marriage has irretrievably broken down, which cannot be revived. Both husband and wife have made the same statement that there is no possibility of any compromise or conciliation of the marriage.

4. The appellant-husband has filed an affidavit stating therein that the respondent-wife is an earning member and has also a share in the ancestral property of her parental house, which has been seriously disputed by the respondent-wife.

5. Considering the facts and circumstances and that both



the appellant and respondent have unanimously stated that there is no possibility of reunion or survival of marriage and that they are living separately from 2010 and more than seven years have gone past, the marriage is annulled and in the interest of justice, the issue can be once and for all settled by awarding one time settlement of Rs. 4 lakhs to the respondent-wife, which the appellant would deposit in the bank account of the respondent-wife within three months. Respondent-wife is directed to provide details of her bank account to the appellant. Both parties will withdraw the cases pending between them before the concerned court.

6. With the directions and observations above, the appeal stands disposed of.

(Nilu Agrawal, J)

I Agree
Ajay Kumar Tripathi, J

Rajesh/-

(Ajay Kumar Tripathi, J)

AFR/NAFR	NAFR
CAV DATE	15.01.2018
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