

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.134 of 2010

=====

Ranjit Kumar Seth, son of Sri Rajendra Prasad Seth, resident of Village
-Fatehpur, P.S-Fatehpur, District- Gaya. Appellant.

Versus

1. Anita Devi, D/O Sri Vimal Prasad Kanthwai, R/O Mohalla- Gola
Road, P.S.- Nawada, District- Nawada.
 2. Sri Bimal Vimal Prasad Kanthwai, S/o Late Chhotu Ram, R/O
Mohalla- Gola Road,P,,S- Nawada, District- Nawada
Respondents.
- =====

Appearance :

For the Appellant : Mr. Ajay Kumar Thakur, Advocate
Md. Imteyaz Ahmad, Advocate.
Mr. Rituraj Raman, Advocate.

For the Respondents : Mr. Ashok Kumar, Advocate.
Mr. Ram Prawesh Kumar, Advocate.
Mr. Bhibuti Narayan, Advocate.
Mr. Deepak Kumar, Advocate.

=====

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL)

Dated: 28.02.2018

Heard learned counsel for the appellant and learned
counsel for the respondents.

2. This miscellaneous appeal has been preferred against
the judgment dated 19.01.2010 and decree dated 29.01.2010
passed by the Principal Judge, Family Court, Gaya in M.T.C.
Case No.94 of 2005/27 of 2000, whereby the learned lower
Court has dismissed the aforesaid case filed by appellant for
annulment of the marriage solemnized between the appellant and
respondent no.1 under Section 12 of the Hindu Marriage Act.



3. Factual matrix of the case is that appellant-Ranjit Kumar Seth filed M.T.C. Case No.94 of 2005/27 of 2000 against the respondents for annulment of his marriage with respondent no.1 under Section 12 of the Hindu Marriage Act, 1955, with the case that the marriage between the appellant and respondent no.1 was solemnized on 24.02.2000 at Nawada. After marriage, respondent no.1 arrived at her marital house and on the first night when the appellant entered into the room he found her behaving in abnormal manner. She started pressing his neck to strangulate him on the bed but he any how managed to get rid of her clutches. In the morning of 26.02.2010 respondent no.1 started slating the appellant and his family members in filthy languages. Then the appellant and his family members contacted the father of respondent no.1 i.e. respondent no.2 and divulged the entire incident to him. Then, they learnt that respondent no.1 has some mental problem and she is suffering from insanity for several years since before marriage and she was treated in Ranchi Institute of Neuropsychiatry and Allied Science (hereinafter in short referred to as 'RINPAS'), Ranchi. She was also examined by other doctors at Ranchi and on her examination by the doctor her disease has been confirmed. Thus, respondent no.1 has been suffering from mental disease since



long preceding to her marriage and she behaved in abnormal and insane manner and put the life of appellant at peril, even on the first night and the appellant lived separate and aloof from respondent no.1. He never lived and enjoyed the normal relation with her and marriage between them was never consummated. She is still insane. Further case of the appellant is that respondent no.2, suppressing and concealing the aforesaid ailments of respondent no.1, got her hitched with the appellant by keeping her under the influence of medicine for some hours during the marriage ceremony. Hence, the marriage between the appellant and respondent no.1 is nothing but a nullity.

4. Respondent no.1 put her appearance in the case and filed written statement with the case, inter alia, that she has not been suffering from any ailment and mental disorder either before or after marriage rather she is sane. Prior to marriage, there was 'Chheka' ceremony and all the members of the appellant's family interacted with her and after being fully satisfied with her behaviour and attitude performed the said ceremony. Besides the aforesaid 'Chheka' ceremony the appellant has got enquired about the respondent through some of his relations and has also twice visited her and interacted with her. No such incident as alleged by the appellant ever took place.



The appellant has filed this false and frivolous case against her to get rid of her as the respondent no.1 and her father failed to cough up the demand of dowry made by him. Further case of the respondent is that on allegation made by the appellant and his family members, her parents took her to Dr. Shailendra Kumar and after examining her the doctor has found her absolutely normal and sane. Further case of the respondent no.1 is that she had passed matriculation examination in 1994 in second division. She was student of Project Kanya Uchha Vidyalaya, Nawadah. She also appeared in the examination held on 23.05.1999 for Primary Teachers Selection by the Bihar Public Service Commission, which rules out the aforesaid allegation of the appellant about his insanity. There has been consummation of marriage between the appellant and respondent no.1. She was all along normal and sane person since before marriage and subsequent thereto and is able to consummate the marriage and there is no threat to the appellant at her hand. Further case of respondent no.1 is that his father has filed Complaint Case No.492 of 2000 before the C.J.M., Nawadah for demanding the dowry and pestering her against the appellant and his parents, which is still pending.

5. On the basis of pleadings, several issues were framed



and both the parties adduced their ocular as well as documentary evidence in buttress of their respective case and after hearing the parties and perusing the record, the learned lower Court passed the aforesaid judgment and decree as detailed in earlier paragraph.

6. Being aggrieved and dissatisfied with the aforesaid judgment and decree, the appellant has preferred this miscellaneous appeal.

7. It is submitted by learned counsel for the appellant that respondent no.1 by writing letter to the appellant, which is marked as Ext.1, has admitted herself to be suffering from insanity since before marriage which has not been denied by the respondent no.1 but the learned lower Court has not considered the aforesaid letter in its right perspective. In support of his case regarding suffering of respondent no.1 with insanity and schizophrenia, the appellant has filed several documents such as medical prescriptions, reports etc. of the doctor examining the respondent no.1 which sufficiently proves the aforesaid ailment of respondent no.1 but the learned lower Court has wrongly and unlawfully discarded the aforesaid documents on the flimsy grounds that the aforesaid documents had not been proved by their authors. Dr. Arun Kumar Gupta, who happens to be



psychiatric of RINPAS, Ranchi, has been examined by the appellant and who has proved that respondent no.1 is suffering from schizophrenia but the learned lower Court has not discussed the evidence of the aforesaid doctor. It has also failed to assign any reason for non-consideration of evidence of the witnesses adduced by the appellant. Appellant has substantially established that there has been no consummation of marriage due to aforesaid abnormal and insane behaviour of respondent no.1 and there is a threat to his life at her hand and consummation of marriage in future is also not possible but the learned lower Court without any basis and capriciously held that the marriage has been consummated between them and respondent no.1 happens to be sane person and she has neither been suffering from any disease since before marriage and subsequent thereto and is able to consummate marriage. Hence, the impugned judgment and decree passed by the learned lower Court is liable to be set aside.

8. On the other hand, learned counsel for the respondent, advocating the correctness and validity of the impugned judgment and decree, has submitted that the appellant is quite sane and normal person and marriage was solemnized between the parties after fully satisfying with the conduct and



behaviour of respondent no.1 and it was also consummated and the respondent no.1 is quite able to consummate the marriage in future and the learned lower Court after considering the evidence and material available on record has rightly observed the same and dismissed the aforesaid case of the appellant finding it shorn of any merit. It is further submitted that moreover as per the case of the appellant respondent no.1 was suffering from insanity since before her marriage but making ultra deviation from the aforesaid case he has adduced evidence to the effect that she has been suffering from schizophrenia, but schizophrenia is not a ground for annulment of the marriage rather for divorce. Hence, the impugned judgment and decree passed by the learned lower Court is liable to be sustained and this appeal has no substance in it and is liable to be dismissed.

9. On the basis of the pleadings, evidence and submissions of the parties, the following issues are formulated by us to decide this case:

1. Whether the respondent no.1 has been suffering from any insanity pre and post marriage?
2. Whether respondent no.1 has been suffering from schizophrenia pre and post marriage?
3. Whether respondent no.1 is suffering from such



degree of mental disorder as to be unfit for marriage and procreation of children?

4. Whether the marriage of the appellant with respondent no.1 was solemnized concealing the aforesaid ailment of respondent no.1 by her father respondent no.2?

10. As the aforesaid points are correlated, hence they are taken together for consideration.

11. From perusal of record it appears that as per the case of the appellant that respondent no.1 has been suffering from insanity since before the marriage. From perusal of documentary evidence, which are medical prescriptions etc. regarding treatment of respondent no.1, it appears that the said documents have no potential to substantiate the case of the appellant that respondent no.1 has been suffering either from insanity or from schizophrenia since before or subsequent to marriage. As Exts.2, 2/A, 2/B, 2/C, 3, 4, 4/A, 5, 5/A and 7 do not indicate that the said respondent was suffering from the said diseases. Moreover, from perusal of Ext.2/A, it appears that Dr. Shailendra Kumar, who had examined the respondent no.1 on 22.04.2000, has found her to be normal having some problem at in-laws and reported to be well. While Ext.2 indicates that Dr.



Shailendra Kumar has found her normal on 24.02.2000. Vide Ext.3 Dr. B.B. Singh has referred the patient to RINPAS, Ranchi for her thorough investigation provisionally observing her to be patient of chronic schizophrenia. Vide Ext.4 the Medical Superintendent of RINPAS, Ranchi has reported to the learned Court below that respondent no.1 was got treated in the Institute only once on 26.05.2000, while vide Ext.4/A the Medical Superintendent of RINPAS, Ranchi has reported to the Court that the patient was examined in the said Institute on 26.05.2000 and as per clinical and psychological test she was primarily diagnosed as a case of schizoeffective disorder. Likewise Ext.5 also indicates that the concerning doctor of RINPAS, Ranchi has provisionally diagnosed her schizophrenic and has advised for her further investigation by psychological E.C.R. On psychological evaluation her memory was found fair and mood good, while Ext.7 which is dispatched slip issued by the RINPAS, Ranchi does not indicate the date of admission and investigation carried out as well as bed-head ticket number of the patient which indicates that the said respondent was not treated as indoor patient in the said Institute rather she was examined at once in the said Institute as outdoor patient. As per the advice of doctor for further investigation she was not taken



to hospital by her in-laws despite instructions of the doctor. Though as per the account of A.W.9 made in para-49 of his cross-examination she was in her in-laws house till 08.06.2000. Thus, non-producing of respondent no.1 by her in-laws in the said Institute for her further investigation, despite instructions of the doctor and in spite of living of respondent no.1 in her marital house till 08.06.2000, creates serious doubts regarding conduct of the appellant and his family and adverse inference is drawn against them. The aforesaid aspect of the case candidly indicates that no further investigation of respondent no.1 was conducted to come to the decisive conclusion that she was suffering from insanity or schizophrenia. Moreover, own brother of the appellant, namely, Sanjeev Kumar (A.W.6) has stated in para-3 of his cross-examination that he has no knowledge of mental disease of respondent no.1 either he or his father or his elder brother had not taken the girl to any medical expert but the document regarding examination and treatment of respondent no.1 at RINPAS, Ranchi (Ext.5) shows that she was examined and prescribed treatment in the said hospital on 26.05.2000 where she was allegedly taken by her father-in-law (A.W.9), as admitted by him in paragraph-14 of his examination-in-chief. Therefore, the aforesaid statement of A.W.6 candidly rules out



the factum of taking the respondent no.1 to RINPAS, Ranchi and her examination in the said hospital and finding her patient of schizophrenia, though provisionally by the doctor of the said Institute and the aforesaid document filed by the appellant appears to be fake and forged one. More so as per the plaint of the appellant respondent no.1 has been suffering from insanity since before marriage which means that the appellant has taken the case of insanity as a ground for annulment of marriage but he has adduced evidence regarding schizophrenia. Thus, he has adduced aforesaid evidence beyond the pleadings and it is not admissible as no evidence can be adduced beyond the pleadings. Moreover, the appellant has not filed the case for divorce on the ground of suffering of respondent no.1 with schizophrenia rather on the ground of insanity but he has made an abortive bid to lead evidence of schizophrenia which he has also utterly and miserably failed to establish as discussed by us hereinabove. Moreover, schizophrenia cannot be a ground for annulment of marriage under Section 12 of the Hindu Marriage Act rather is a ground of divorce under Section 13 of the Hindu Marriage Act. The appellant has not filed a case under Section 13 of the Hindu Marriage Act rather for annulment of marriage under Section 12 of the Hindu Marriage Act.



12. From perusal of Exts.1 & 2, it appears that the respondent no.1 has passed out matriculation examination in second division in the year 1994 as a regular student and she had taken physical study as an optional subject. She was examined in complaint case in the Court of Magistrate, Nawadah and she was also examined in the case for maintenance as admitted by the appellant (A.W.11) in paragraphs-2 & 3 of his examination-in-chief. She has also been examined by the learned lower Court in this case but none of the Court has found her as insane. From perusal of her statement before the learned lower Court, it appears that she was subjected to lengthy cross-examination and she has given reply of the question put up to her promptly. Thus, the aforesaid aspects of the case eloquently indicate that she was not insane rather sane person.

13. A.W.9-Rajendra Prasad, who happens to be father of the appellant, has candidly stated in paragraph-41 of his cross-examination that he learnt that respondent no.1 was insane at the time of marriage but even then he did not refuse to marry his son. The aforesaid act of A.W.9 appears to be against the natural course of conduct and raised million dollar question as to why he got his son hitched with respondent no.1 despite knowing the fact that she was insane. He has also not assigned



any plausible reason for the same. A.W.9 in paragraph-28 of his cross-examination has further stated that he had got enquired about the bride before the marriage by his son-in-law, namely, Udai Rai, brother-in-laws, namely, Arvind Kumar and Bhagwan Babu, Advocate who are residents of the same district Nawadah as of respondent no.1. The aforesaid statement of A.W.9 distinctly indicates that he had got the marriage of his son (appellant) performed with respondent no.1 after plenarily verifying about her and her family status through his relations, who are residents of the same district as that of the bride. A.W.9 in paragraph-30 of his cross-examination has further stated that he had seen the bride preceding to 'Chheka' (engagement). His brother-in-law and son-in-law had also seen her. In paragraph-31, he has stated that he had interacted with the bride in 'Chheka'. A.W.11 (appellant) has stated in paragraph-16 of his cross-examination that his sister Jyoti Kumari had attended 'Chheka'. Umesh Prasad who happens to be uncle of the appellant, examined in this case as A.W.1 has stated in paragraph-1 of his cross-examination that he had also participated in 'Chheka'. A.W.6-Sanjeev Kumar who is the brother of the appellant has stated in paragraph-2 of his cross-examination that he had seen the bride twice before the



marriage. He had interacted with his would be 'Bhabhi' in the 'Chheka'. The aforesaid statement of appellant and said witnesses candidly indicates that family members of the appellant had visited the house of respondent no.1 twice and interacted with her but they did not find any loopholes, shortcomings and abnormality in the conduct, behaviour, temperament and attitude of the bride though they had ample opportunity and occasion to notice the same and being fully satisfied with it the marriage of the appellant was performed with her. Thus, the aforesaid aspects of the case eloquently rule out the case of the appellant that respondent no.1 was suffering from insanity or schizophrenia since before the marriage.

14. Appellant has laid much emphasis on the letter Ext.1 allegedly written by the respondent no.1 in a bid to prove that by the said letter respondent no.1 has admitted herself to be insane but writing of the said letter has been denied by respondent no.1. So the burden lies on the shoulder of the appellant to prove the said letter by getting the said letter examined by handwriting and finger print expert to indicate that it is written by none else than the respondent no.1 but the appellant failed to discharge the aforesaid burden. Moreover, the aforesaid letter also goes to rule out the case of the appellant that



respondent no.1 is insane. As had she been insane how she would have written the said detailed letter.

15. As per the case of the appellant, respondent no.1 had pressed his neck and tried to eliminate him on the very first night of marriage and also slated him and his family members on the following day but the appellant did not get himself medically examined and did not file any police report or complain etc. regarding the said incident. He has not even filed any petition in the Court for medical examination of respondent no.1 by the Medical Board. A.W.17-Dr. Arun Kumar Gupta has also not stated about degree of mental disorder of respondent no.1 Thus, the appellant has utterly and miserably failed to prove that respondent no.1 has been suffering from mental disorder and insanity or schizophrenia and that too of such a kind or to such an extent as to be unfit for marriage and procreation of children.

16. In the aforesaid facts and circumstances of the case and the discussions made by us hereinabove, we find and hold that the respondent no.1 was neither nor is suffering from any insanity or any degree of schizophrenia pre or post marriage and she is quite fit for consummation of marriage and procreation of children and her marriage was performed with the appellant not concealing her alleged ailment by her father respondent no.2



rather after making comprehensive enquiry about her and her family members and witnessing and interacting her pre marriage by the appellant and his family members and also after fully satisfying with her conduct and finding her to be sane person, the marriage of the appellant was solemnized with respondent no.1. Hence, we do not find any merit and substance in the aforesaid case of the appellant and illegality and impropriety in the impugned judgment and decree passed by the learned lower Court. Accordingly, the same is upheld and this appeal is dismissed. The cost of the appeal is made easy.

(Prakash Chandra Jaiswal, J.)

(Dr. Ravi Ranjan, J.) I agree.

(Dr. Ravi Ranjan, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	09.02.2018
Uploading Date	28.02.2018
Transmission Date	28.02.2018

