

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

FA No. 71 of 2005

Smt.Nanda wife of Jagdish, aged about 29 years, resident of 49-33-30, A Ramkrishna Nagar, near Mathura Nagar, Vishakhapatnam (A.P.)

---- Appellant

Versus

Jagdish son of A. Bairagi, aged about 32 years, resident of 11/D Street No.27, Sector-5, Bhilai, Tah. & Distt. Durg (C.G.)

---- Respondent

For appellant- Shri C. Jayant K. Rao, Advocate.
For respondent-Shri Rahul Jha, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

5/09/2018

Heard.

1. Instant appeal is against the order dated 5/02/2005 passed by the 7th Additional District Judge (FTC) Durg in Civil Suit No.116-A/2004 whereby decree for divorce was passed on an application filed by the plaintiff/husband respondent herein.
2. On 29/08/1999 marriage of the appellant and the respondent took place according to the Hindu rites at Bhilai. Subsequently, petition was preferred for divorce under Section 13 of the Hindu Marriage Act, 1955 on 7/07/2001 i.e. after two years of the marriage.
3. Averment which was made in the petition for divorce by the husband Jagdish respondent herein when is traversed through would purport that after marriage wife started misbehaving with the children of house and elderly people and the other relatives of the husband and unnatural conduct was shown. Narrating the incidents it was pleaded that

without any information to anyone she used to loiter outside and there and used to murmur with self alone. It was further stated that on 10/09/1999 the husband went with the wife to Vishakapatnam i.e. her maternal home wherein after reaching she started quarreling with her mother and started abuse. Husband since had to come back to Bhilai his place of work mother initially was not agreeable to leave her with husband and after coming back to Bhilai she stated that she cannot live with the husband. It is pleaded that the wife used to roam around in very old dress outside the house and sometimes used to take bath in open courtyard. Having noticed, she was advised not to behave in such manner but she did not hear. It was further stated that wife used to sit outside the room, used to sit in the garage of house and boundary wall and the courtyard in the night at the time of sleep. It is further pleaded that the wife stopped the husband to lit the light and fan and forced the husband to drink liquor and any resistance to it wife reciprocated that she would commit suicide and extended threat that she would kill the husband. It is further pleaded that the wife at times on several occasions left the home with her luggage and sit in the platform for 3-4 hours at Durg and every time after search when found she was to be taken back. Further it is pleaded that for 8-10 hours wife used to wander here and there without disclosing where she is going, however when she was advised not to do so she used to speak filthy language. It was further stated that she used to move out of the house and was brought back many a times in the night with the help of the other people. Further narrating facts it was stated that after 1 ½ months of the marriage in the month of October when mother of the wife came wife started quarreling with her. The husband on such behaviour when made enquiry, the mother explained that she used to behave in such a fashion at some point of time. Thereafter, again wife went back to Vishakapatnam with her mother and after 15 days she came back and stayed for three

months along with the husband. It was stated that wife used to murmur at the time of sleep in the night and used to oppose to sleep along with the husband. It was further pleaded that husband tried to console her wife but no change of behaviour was noticed and when she was advised not to do so unnatural behaviour filthy abuse were made in return.

4. In the course of such living together when wife became pregnant at that time she asked for the abortion but was not acceded too by husband. Thereafter in December 1999, after packing bag and bagges wife left the house of the husband of her own. During such course wife also extended threat to lodge report under section 498-A of IPC to husband and extended threat to inculcate entire family. By such threat family of the husband came under mental tension and threat and such danger continued. It is further pleaded that husband and entire family noticing the unnatural behaviour of wife wanted to treat the non-applicant but it was objected by the wife herself and her mother on the pretext that she could be treated at Vishakapatnam properly. It was further pleaded that despite all resistance of wife for treatment, she was admitted to sector-9 hospital but she left the hospital in middle and went back. Mother of the wife thereafter disclosed that the wife was admitted in the Vishakapatnam hospital for treatment because of abnormality. In sector-9 hospital wife was diagnosed with paranoid schizophrenia and mother of the wife took the wife to Vishakapatnam and on 19/05/2001 husband and their family members went to Vishakapatnam they were assaulted with sleeper and shoes. Further it is stated that the wife was treated by psychiatrist Dr. Prem Narayan Shukla wherein also it was advised that complete cure is not possible and again wife was admitted to the sector-9 hospital on 28/05/2001 to 12/06/2001 and on 12/06/2001 again without consent of the doctor wife went away from the hospital and went to Vishakapatnam. It was pleaded that because of such mental insanity and cruelty husband

was entitled for divorce under Section 13 of the Hindu Marriage Act.

5. The appellant/wife denied the entire averment of the petition. It was stated that because of misbehaviour and the cruelty meted out to her she started living with her mother from 13/06/2001. It was stated that the wife is not able to understand hindi and only understands telugu, therefore false allegations have been clamped on the wife. It was stated that wife was subjected to cruelty for demand of dowry and entire family members of the husband had treated the wife with cruelty and because of that she was forcefully subjected to abortion in sector-9 hospital, Bhilai. It is stated that because of the cruelty meted out to the wife, mother of the wife took her daughter away to get her properly treated at Vishakapatnam and as such allegation that wife deserted the husband after 13/06/2001 was wrong.

6. Learned court below after evaluating the facts and evidence believed the statement and averment on behalf of the husband who had examined two witnesses i.e. himself as PW-1 and PW-2 Dr. Shail Verma. Witness non-applicant/wife examined herself. Court after going through the documents and statement found it that wife/appellant is suffering with paranoid schizophrenia and therefore husband was subjected to cruelty and as such granted divorce under section 13 of the Hindu Marriage Act. Same is under challenge.

7. Perused the record and the evidence. Marriage in between the appellant and respondent took place on 29/08/1999 according to the Hindu custom. The petition was filed under Section 13 of the Hindu Marriage Act, 1955 on 7/07/2001 which appears to be within 2 years of the marriage. The petitioner had examined himself before the court as PW-1 and one doctor Shail Verma is examined as PW-2. According to the husband he has deposed that on the date of marriage he saw that respondent/wife and her mother were in severe altercation. The very fact

of entering into severe altercation on the date of marriage appears to be unnatural. The husband stated that after marriage he came along with the wife and stayed for 10 days at Bhilai. Further narrating the fact it is stated by husband that during 10 days wife did not used to sleep inside the room and used to murmur alone. It is further stated that she used to sit in the garage and at times used to go out of the house. While sleeping she used to switch of the fan and at times used to put on the light, though husband stated that he asked her not to do but she did not hear him. The behaviour of like nature also appears to be unnatural. It is further stated that after 10 days husband went along with the wife to her maternal home wherein he saw that on the next day in the morning she was in quarrel with her mother. Having asked nothing was disclosed. Further he has stated that thereafter she had scuffle with her own mother and started beating her mother with the sleeper. Having asked by husband it was stated by her mother that at times she used to do like that. Further deposed that thereafter, he wanted to come back but he was resisted by mother of wife. However the petitioner with wife came back and stayed for 30-40 days at Bhilai. During such stay no change was found in the behaviour of wife. He further stated that during her stay wife used to abuse his parents. Further without informing anyone in house she used to go out from the house for 2-3 hours and at times she was found at market and at times at railway station and at times at some place at sector-2. Having asked why she was doing that it is stated that she used to do it of her own.

8. Husband further stated that whatever people used to come to their house their relatives she used to suspect them. He further stated that wife used to quarrel with her sister-in-law as they were living together in the joint family along with the parents. He stated that the wife also used to suspect his character and objected of giving any money in the house and because of that entire family was disturbed. It is stated being in such a

situation husband wanted to have peace and suggested wife to stay separate with his wife. It is stated having said so, the wife contended that it would be in the interest of all to stay together for the reason if she go out, she could be searched with the aid and help of family members but if they stay alone and if she goes out somewhere how she will be found. She stated that because of joint family they were able to search her out. It is stated by husband hearing such thing he became scared. Husband further deposed that after evaluating the entire behaviour he suspected that his wife is not mentally fit. Having suspected those things when he contacted with the mother and brother of the wife they suggested him to control her and advised him to beat her too to control. He further stated that in between 30-40 days of stay she went out for 3-4 times out of the house and she was to be searched out in entire city. Thereafter, his wife became pregnant. It is further stated that when she knew the fact she wanted to abort the child and consumed certain medicine in the house as such she was taken to some private hospital in Durg initially but the hospital refused to admit. Thereafter, when she complained about some pain in abdomen after two days she was admitted to sector-9 hospital wherein she was aborted because of effect of medicine. Husband further deposed that they when came back to house from hospital and while he was taking meal, at that time she again went out of the house and she was searched and was brought back. It is further stated that these incidents were reported to the family members of the wife but they did not come.

9. Husband further has deposed that in the year 2000 mother of the wife came to their house. Further deposed that wife then wanted to go back with her mother to her place however the mother had advised the husband that she should be kept here and advised to make all efforts that she should not go to Vishakapatnam. It is stated however she went along

with the mother against all advice. Thereafter again after 10-15 days she came back of her own with the mother and stayed for 2 ½ months with him. During such stay it is stated that the wife never used to sleep, she used to walk in the garden and used to sit in the garage. During such period other members of the house left the petitioner husband and his wife and went to their village because of the behaviour of wife.

10. Narrating the incident the husband deposed that at one time he had to go to attend marriage at Calcutta with wife. They had reservation by train by evening. Before the train time again her mother dropped in afternoon. After seeing her mother the wife lost her control and started throwing the goods of the mother and started assaulting for the reason their journey could have spoiled. The husband further stated that her mother cried for help to save her from assault and eventually the situation became so they could not go to Calcutta. Thereafter mother stayed for 4 days in their house and during her stay wife used to abuse and quarrel with her mother. Thereafter it is stated when one day when mother and father of the husband came back from village the wife broke her bangles and stated that she do not want any husband and went away with her mother to station as she was going back. Husband further stated that when he went to station wife advised him to come to Vishakapatnam and went alongwith the mother. He further stated that in the month of October, 2000 brother and mother of the wife again came along with the wife. Husband when asked the brother to take her back for her behaviour he refused to take her back on the ground that his family would be ruined and they went back leaving the wife.

11. Husband further has deposed that the wife stayed with the husband for few time but the old habit continued that of not sleeping in the night. Further deposed that when some friends came to meet husband, the wife after seeing them started running from one place to other, thereafter used

to caught hold of collar of the husband. Further narrating a incident he stated that when he went to market to purchase garment while they were coming back and were on scooter she jumped from running scooter all of a sudden and got injury. Thereafter he took his wife to the friend and first aid was given. On the next day she was left at Vishakapatnam by husband. After five months again she came back from Vishakapatnam without any notice however he came to know of the fact as he was called at the police station. Having reached to police station and enquired it revealed that the wife had come back after quarrel with her mother all alone. Thereafter, wife was taken from the police station to the house and the next day wife again went to the police for no reason and looking to the behaviour by police she was sent to the doctor and she was shown in the sector-9 hospital and also to doctor Prakash Narayan Shukla.

12. Deposition would further show that after marriage wife/appellant stayed for 8-10 months along with the husband in different intervals and maximum stayed for 1 ½ months not more. Narrating the particular incident it is stated that on 5th April, 2001 she came from Andhra Pradesh to the station and sat in the station. In the night while she was loitering she was made to sit by the police in the police station. Having made to sit in police station non-applicant/wife had particulars of the husband police called the husband and thereafter she was taken to the house. It is stated that next day she went to the police station and complained about marpeet/assault on which counselling was done. During counselling Dr.Shail Verma PW-2 had examined the wife and after examination she was diagnosed with paranoid schizophrenia and thereafter she was taken to the doctors. During such treatment it revealed that she had old mental ailment the treatment of complete cure was not possible. In the cross examination further witness has deposed that the appellant/wife was initially shown to Dr. Prakash Narayan Shukla, thereafter she was taken to

Sector-9 hospital and there Dr. Shail Verma had examined her. He further stated that she was admitted to the hospital for 15-16 days. Suggestion given to the appellant that she was subjected to torture for demand has been completely negated. PW-1 has proved the medical documents Ex.P-1 & P-3, P-4 and P-5 of Jawaharlal Nehru Hospital Sector-9 of Bhilai Steel Plant, certificate issued by Dr. Prakash Narayan Shukla as Ex.P-7 wherein it is shown that wife is suffering with paranoid schizophrenia. Further medical documents of Jawaharlal Nehru Hospital are filed from Ex.P-9 to P-12 and also medical history of wife as Ex.P-14 which is of Jawaharlal Nehru Hospital, Bhilai.

13. Dr. Shail Verma was examined as PW-2. She stated that she first saw the non-applicant in the counselling centre of the police. This fact is also corroborated with the fact that when wife went to Vishakapatnam and came back alone she was taken to the police station. When she was loitering in station she was made to sit in the police station. Thereafter, on next day the counselling was done. Therefore, as such the fact that wife met with doctor PW-2 as counselor in police station for the first time is not in dispute. Doctor stated that during the counselling and conversation she found that the wife used to suspect her husband too much and without informing anyone in the house she used to go out. She further stated that she used to quarrel too much also and according to her she found her suffering with mental disorder, therefore she was asked to come to the hospital.

14. According to her, wife was admitted to the hospital on 28/05/2001 for 10 days for observation. This finds support from the document Ex.P-14 which is medical sheet of Hospital Sector-9 that of the non-applicant/wife. This also shows that on 28/05/2001 she was admitted to the hospital. Doctor further stated that during such admission she was observed and it was found that she used to quarrel with the staff she never used to sleep

in the bed, refused to take medicine and always was under the doubt and used to suspect that medicine may contain poison. She further stated that after the examination it was found that she was suffering with paranoid schizophrenia. As per the doctor patient of this nature used to suspect for no reason, they do not sleep, they cannot perform family obligation. According to the doctor during treatment mother and brother of the wife were also there and she was in hospital from 28/05/2001 to 11/06/2001 the signature were endorsed on Ex.P-14 which is treatment book of the wife. According to the doctor paranoid schizophrenia was not fully curable and had to take medicine regularly. In the cross examination she further stated that by continuous consumption of medicine patient may continue but cannot come out of the ailment. The PW-2 was the head of the department of the section wherein she was treated. Witness further stated that during counselling she had met the lady for 3-4 times. A general opinion was given in cross examination that at the initial stage if the ailment is diagnosed same may be cured. But what was the degree of disease qua the wife no such suggestion exists. According to the doctor appellant/wife was suffering with paranoid schizophrenia.

15. Non-applicant had examined herself. She stated that she was subjected to torture for money, gold and land for demand of dowry. She deposed that when she became pregnant she was forcefully treated therefore she suffered abortion. According to her she was subjected to torture by the family members of the husband, therefore her mother had taken her back to her maternal home. Other rest of the suggestion she has denied. She further has deposed that she had gone with her mother to Vishakapatnam and stayed there for 15 days when the husband did not come there to take her back she alone came down to Bhilai and stayed at railway station for the entire night. Said statement of wife support the statement of husband wherein he has deposed that wife came back from

Vishakapatnam she remained entire day in station and at night when police called him he reached to station and took back her wife. She admitted the fact that she was admitted to the sector-9 hospital and she was admitted for 22 days but deposed that she was forcefully been treated which is negated by the treating doctor PW-2. Treatment at Vishakapatnam by her mother is also admitted but has deposed that she was treated to know the fact that whether she is suffering with paranoid schizophrenia or not. Treatment by Dr. Shail Verma (PW-2) at sector-9 hospital is also admitted. She had further deposed that she had came back from Vishakapatnam once for the reason that her mother and brother used to quarrel with each other.

16. The Supreme Court in case law reported in **(2013) 8 SCC 83** in between **Veer Pal Singh Vs. Secretary, Ministry of Defence** has reproduced the schizophrenia as under:-

“12.In Merriam-Webster Dictionary “Schizophrenia” has been described as a psychotic disorder characterized by loss of contact with the environment, by noticeable deterioration in the level of functioning in everyday life, and by disintegration of personality expressed as disorder of feeling, thought (as in delusions), perception (as in hallucinations), and behavior – called also dementia praecox; Schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history.”

“13. The National Institute of Mental Health, USA has described “Schizophrenia” in the following words:

“Schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history. People with the disorder may hear voices other people don’t hear. They may believe other people are reading their minds, controlling their thoughts, or plotting to harm them. This can terrify people with the illness and make them withdrawn or extremely agitated. People with schizophrenia may not make sense when they talk. They may sit for hours without moving or talking. Sometimes people with schizophrenia seem perfectly fine until they talk about what they are really thinking. Families and

society are affected by schizophrenia too. Many people with schizophrenia have difficulty holding a job or caring for themselves, so they rely on others for help. Treatment helps relieve many symptoms of schizophrenia, but most people who have the disorder cope with symptoms throughout their lives. However, many people with schizophrenia can lead rewarding and meaningful lives in their communities.”

“14.2 Negative symptoms: Negative symptoms are associated with disruptions to normal emotions and behaviors. These symptoms are harder to recognise as part of the disorder and can be mistaken for depression or other conditions. These symptoms include the following:

- (i) “Flat effect” (a person’s face does not move or he or she talks in a dull or monotonous voice).
- (ii) Lack of pleasure in everyday life.
- (iii) Lack of ability to begin and sustain planned activities.
- (iv) Speaking little, even when forced to interact.

“15. In Modi’s Medical Jurisprudence and Toxicology (24th Edn. 2011) the following varieties of Schizophrenia have been noticed:

Simple Schizophrenia – The illness begins in early adolescence. There is a gradual loss of interest in the outside world, from which the person withdraws. There is an all round impairment of mental faculties and he emotionally becomes flat and apathetic. He loses interest in his best friends who are few in number and gives up his hobbies. He has conflicts about sex, particularly masturbation. He loses all ambition and drifts along in life, swelling the rank of chronically unemployed. Complete disintegration of personality does not occur, but when it does, it occurs after a number of years.

Hebephrenia- Hebephrenia occurs at an earlier age than either the katatonic or the paranoid variety. Disordered thinking is the outstanding characteristic of this kind of schizophrenia. There is great incoherence of thought, periods of wild excitement occur and there are illusions and hallucinations. Delusions which are bizarre in nature, are frequently present. Often, there is impulsive and senseless conduct as though in response to their hallucination or delusions. Ultimately the whole

personality may completely disintegrate.

Katatonina - Katatonina is the condition in which the period of excitement alternates with that of katatonic stupor. The patient is in a state of wild excitement, is destructive, violent and abusive. He may impulsively assault anyone without the slightest provocation. Homicidal or suicidal attempts may be made. Auditory hallucinations frequently occur, which may be responsible for their violent behaviour. Sometimes, they destroy themselves because they hear God's voice commanding them to destroy themselves. This phase may last from a few hours to a few days or weeks, followed by stage of stupor.

The katatonic stupor begins with a lack of interest, lack of concentration and general apathy. He is negative, refuses to take food or medicines and to carry out his daily routine activities like brushing his teeth, taking bath or change his clothes.... The activities are so very limited that he may confine himself in one place and assume one posture however uncomfortable, for hours together without getting fatigued. His face is expressionless and his gaze vacant.... They may understand clearly everything that is going on around them, and sometime without warning and without any apparent cause, they suddenly attack any person standing nearby.

Paranoid Schizophrenia, Paranoia and Paraphrenia - Paranoia is now regarded as a mild form of paranoid schizophrenia. The main characteristic of this illness is a well elaborated delusional system in a personality that is otherwise well preserved. The delusions are of a persecutory type. The true nature of the illness may go unrecognized for a long time because the personality is well preserved, and some of these paranoiacs may pass off as social reformers or founders of queer pseudo-religious sects. The classical picture is rare and generally takes a chronic course.

Paranoid schizophrenia, in the vast majority of cases, starts in the fourth decade and develops insidiously. Suspiciousness is the characteristic symptom of the early stage. Ideas of reference occur, which gradually develop into delusions of persecution. Auditory hallucinations follow which in the beginning, start as sounds or noises in the ears, but become fixed and definite, to lead the patient to believe that he is persecuted by some unknown person or some superhuman agency. He believes that his food is being poisoned, some noxious gases are blown

into his room and people are plotting against him to ruin him. Disturbances of general sensation give rise to hallucinations, which are attributed to the effects of hypnotism, electricity, wireless telegraphy or atomic agencies. The patient gets very irritated and excited owing to these painful and disagreeable hallucinations and delusions.

Since so many people are against him and are interested in his ruin, he comes to believe that he must be a very important man. The nature of delusions thus, may change from persecutory to grandiose type. He entertains delusions of grandeur, power and wealth, and generally conducts himself in a haughty and overbearing manner. The patient usually retains his money and orientation and does not show signs of insanity, until the conversation is directed to the particular type of delusion from which he is suffering. When delusions affect his behaviour, he is often a source of danger to himself and others.

The name paraphrenia has been given to those suffering from paranoid psychosis who, in spite of various hallucinations and more or less systemized delusions, retain their personality in a relatively intact state. Generally, paraphrenia begins later in life than the other paranoid psychosis.

Schizo affective psychosis - Schizo affective psychosis is an atypical type of schizophrenia, in which there are moods or affect disturbances unlike other varieties of schizophrenia, where there is blunting or flattening of affect. Attacks of elation or depression, unmotivated rage, anxiety and panic occur in this form of schizophrenic illness.

Pseudo-neurotic schizophrenia - Schizophrenia may start with overwhelmingly neurotic symptoms, which are so prominent that in the early stages, it may be diagnosed as neurosis. When schizophrenia begins in an obsessional personality, it may for a long time remain disguised as an apparently obsessional illness."

17. The Supreme Court further in the case decided in **(2011) 12 SCC 1** in between **Pankaj Mahajan Vs. Dimple alias Kajal** observed that when the husband has narrated specific incident of abnormal behaviour of respondent/wife the same may be considered. The husband has pleaded and averred that wife was suffering with continuously/intermittently from

incurable mental disorder which is also supported by the doctor and would show that mental disorder is of such nature that he cannot be reasonably expected to live with her. The husband has also stated that due to her unsoundness the respondent/wife was not able to lead a married life. The statement and document when are evaluated affirms the same.

18. Evaluating both the evidence that of husband, doctor as also that of wife and the documents which are produced by the husband appears to be of the natural consequence of treatment of his wife and has been produced from the lawful custody. Documents examined would show that the appellant was married in the August, 1999. The medical document is of November, 1999 is produced as Ex.P-1, then prescription of Dr. Prakash Narayan Shukla is of 16th April, 2009 marked as Ex.P-3, receipts of Jawaharlal Nehru Hospital is Ex.P-4 and P-5 dated 17/12/1999. The treatment given at district hospital Durg is of 25/11/1999 marked as Ex.P-6. Further different medical report that of the wife of Sector-9 hospital are marked from Ex.P-9 to Ex.P-12. Cumulatively on examination of documents it shows that immediately after the marriage she was subjected to treatment continuously. The nature as has been complained by the husband would show that it was completely unnatural and moreso the treatment given to her corroborate the fact that after few days of the marriage the fact of incurable unsound mind came to fore. Statement of the husband which is supported by the doctor shows that wife was intermittently suffering with mental disorder and the nature of the complaint which is made is to an extent it can be reasonably presumed that husband cannot be expected to live with the respondent.

19. Further reading of the evidence would show that after unnatural behaviour of the wife was noticed she was not abandoned but was subjected to medical treatment. Therefore, on the part of the husband it shows that he tried to get her treated but eventually state of affairs

continued. Perusal of the record of this memo of appeal would show that during the pendency of this appeal on 3/03/2016 an application was filed by the appellant/wife to pass an order of restrain to conduct second marriage. In reply to such application it was submitted by the respondent/husband that second marriage is already been contracted and as such on such submission made interim relief prayed for was not allowed to the wife.

20. The circumstances would show that the wife filed an application to restrain the husband from contracting second marriage which was not allowed by this court meaning thereby separation has created an unbridgeable distance between the two. Therefore, as has been held in **(2007) 4 SCC 511** if court refuses to sever the tie it may lead to mental cruelty. As appears today the husband and wife are staying separately from 2001, therefore as has been reiterated in **(2013) 5 SCC 226** in between **K. Srinivas Rao Vs. D.A. Deepa** proposition of **V. Bhagat vs. D. Bhagat, (1994) 1 SCC 337** was followed which reads as under:-

“21.....Irretrievable breakdown of the marriage is not a ground by itself. But, while scrutinising the evidence on record to determine whether the ground(s) alleged is/are made out and in determining the relief to be granted, the said circumstance can certainly be borne in mind.”

21. The facts as such shows that there is no question of reunion here and husband and wife had been living separately, therefore marriage had been wrecked beyond the hope of salvage, as such it shows that there has been irretrievable breakdown of marriage exist. The marriage which is dead for all purposes cannot be revived by the court's verdict, if the parties are not willing. It is a mental factor. Consequently, decree of divorce has to follow.

22. Under the circumstances fact would suggest that in any case both of the appellant and the respondent cannot continue further with their

matrimonial relation. In view of this, this court is not inclined to interfere in the decree of divorce which is been passed by the court below as no apparent illegality or perversity is pointed out.

23. Records would show that no permanent alimony to the wife has been granted by the court while passing the decree of divorce. During the course of argument document have been produced to show that at present husband who is employed with the Bhilai Steel Plant is getting gross salary of Rs.64,322/-. Therefore, in exercise of power conferred under Section 25 of the Act of 1955 in order to allow survival of wife and to avail the medical facilities, I think it proper to grant an amount of Rs.15000/- per month to the wife as permanent alimony which would be deducted from the salary of the respondent/husband. It is further made clear that at the time of retirement since as stated no pensionary benefit are allowed to husband a consolidated amount of 30% of the amount payable to the husband shall be deducted and would be payable to the wife for her survival in future.

24. With such modification, the appeal stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE

