

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 16.04.2018****Delivered on 20.04.2018****First Appeal (Misc.) No. 40 of 2014**

- Vinod Kujur, S/o Joseph Kujur, aged about 38 years, Caste Uranw, R/o Phundurdihari (Mahuwapara) Ambikapur, Police Station & Tahsil Ambikapur, District Surguja CG

----Appellant**Versus**

- Smt Anupa Kujur, W/o Vinod Kujur, aged about 33 years, Caste Uranw, R/o Village- Ganjhiyatoli, Tahsil Kunkuri, District Jashpur CG

---- Respondent

For Appellant	:	Shri Pramod Shrivastava, Advocate on behalf of Shri AK Yadav, Advocate
For Respondent	:	None appears

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this appeal, the challenge is levied to the judgment and decree dated 17.02.2014 of Additional District Judge, Kunkuri, district Jashpur, Chhattisgarh in Civil Suit No. 7A/2013 whereby and whereunder he directed that the respondent would be entitled to get the permanent alimony @ Rs.2,000/- per month from the appellant as ordered by the Chief Judicial Magistrate, Jashpur on 28.07.2007 in an application filed under Section 125 of the Cr.P.C. If she re-married, then, her right of permanent alimony would be extinguished automatically from the date of the second marriage.

2. This is admitted by the respondent that she had filed an application under Section 125 of the Cr.P.C., wherein the Additional Chief Judicial Magistrate, Kunkuri had ordered the appellant on 28.07.2007 that he shall pay the allowance for the maintenance @ Rs.2,000/- per month to the respondent, she had filed an execution case which was registered as Criminal M.J.C., 32 of 2011 for receiving the arrears of allowance for the maintenance, he had paid her Rs.40,000/- on 04.10.2012 and Rs.90,000/- on 10.12.2012 and the execution was dismissed on the same day on full satisfaction.

3. The appellant had filed an application under Section 10 of the Divorce Act for obtaining decree of divorce on the ground of cruelty, desertion and adultery. Both the parties contested the case.

4. After concluding the trial, the trial Court passed judgment and decree on 17.02.2014. The trial Court granted the decree of divorce in favour of the appellant and given directions as aforesaid.

5. Shri Pramod Shrivastava, the learned counsel for the appellant argued that the appellant has already paid the lumpsum amount of Rs.70,000/- to the respondent as permanent alimony, thus, the aforesaid directions given by the trial Court are illegal and deserve to be set aside.

6. None appears for the respondent though served.

7. This was not the case of the appellant before the trial Court that he has already paid the lumpsum amount of Rs.70,000/- to the respondent as permanent alimony. The trial Court has also not given such finding. NAW-1 Smt Anupa Kujur had stated in para- 4 during her examination-in-chief that she agreed for the divorce if the appellant give her Rs.70,000/-. Moreover, appellant has failed to prove before the trial Court that he had already paid

Rs.70,000/-, which is not the part of the arrears of the allowance for the maintenance, due after 10.12.2012.

8. Looking to the above facts and circumstances of the case, this Court finds that appeal is devoid of merit. Therefore, aforesaid directions given by the trial Court are affirmed and the appeal deserves to be and is hereby dismissed.

9. The appellant shall bear his own costs.

10. A decree shall be drawn up accordingly.

Sd/-

(Sharad Kumar Gupta)
JUDGE