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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 23.05.2018

MAT.APP.(F.C.) 124/2018

AK V

..... Appellant

versus

S K

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr. M.K. Sinha, Advocate with appellant in person

For the Respondent : None

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE DEEPA SHARMA

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM No.21935/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

MAT.APP.(F.C.) 124/2018

1. The present matrimonial appeal assails a decision dated 17.04.2018 passed by the learned Family Court, Dwarka, New Delhi, whereby the appellant husband's petition, seeking dissolution of the

marriage between the parties, on the ground of cruelty, came to be dismissed.

2. The said petition was adjudicated ex-parte, in view of the finding that despite service of notice, there was no contest on behalf of the respondent wife. The learned Family Court opined that although upon the examination of the pleadings and evidence led on record, a few instances of acts of cruelty on behalf of the respondent wife have been mentioned, yet there is complete failure on the part of the appellant husband to furnish any specific details *qua* these allegations, which in themselves are vague, non-specific and general in nature.
3. The above findings are unassailable, in view of the circumstance that on a perusal and close scrutiny of the pleadings and the evidence led by the appellant husband, it is evident that the allegations are completely bereft of any details that can be characterized as sufficient to warrant a finding of cruelty.
4. In this view of the matter, we are in agreement with the learned Family Court that the appellant husband has miserably failed to furnish any specific details or lead evidence sufficient to prove the vague and general allegations, in order to entitle him a decree of dissolution of marriage on the ground of cruelty, on the part of the respondent wife.

5. Rule 7 of Hindu Marriage Act, 1979 referred to and relied upon by the learned Family Court in this behalf, is apposite, inasmuch as, it stipulates as under:

“In addition to the particulars required to be given under Order VII, Rule 1 of the Code of Civil Procedure and Section 20 (1) of the Act, all petitions under Sections 9 to 13 of the Act shall state

(a to f) xxx xxx

(g) the matrimonial offence or offences alleged or other grounds, upon which the relief is sought, setting out with sufficient particulars the time and places of the acts alleged, and other facts relied upon, but not the evidence by which they are intended to be proved e.g;

(i to iii) xxx xxx

(iv).....in the case of cruelty, the specific acts of cruelty and the occasion when and the place where such acts were committed.”

6. It is also trite to state that cruelty, which is a ground for dissolution of marriage, may be defined as wilful and unjustifiable conduct of such a character, as to cause danger to life, limb or health, bodily or mental, or as to give rise to a reasonable apprehension of such a danger. **[Ref: *Dastane N.G. vs. Mrs. S. Dastane* reported as AIR 1975 S.C. 1534]**
7. In our view, the unspecific allegations made on behalf of the appellant, although they may demonstrate, the normal wear-and-tear of married life; they are not sufficiently elaborated in any

manner in relation to the day, time and places where they occurred, to lead to a conclusion of being truly described as unreasonable. They evidently are a consequence of a temperamental disharmony and do not support the return of a finding or cause for the dissolution of marriage.

8. Before we part, we must observe that the respondent wife on the appellant husband's own assertion, left the matrimonial home on 01.02.2017 for her maternal home in Bihar and the subject petition came to be filed immediately thereafter on 24.03.2017, evidently leading to an inescapable conclusion that the appellant husband made no efforts to bring her back to the matrimonial home.
9. The said circumstance assumes importance in the backdrop of the assertion made on behalf of the appellant husband before us that, he has all along been making the efforts for reconciliation and rapprochement.
10. In view of the foregoing discussion, we find that the present appeal is devoid of merit and the same is accordingly dismissed.

SIDDHARTH MRIDUL
(JUDGE)

DEEPA SHARMA
(JUDGE)

MAY 23, 2018/as