

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7975 OF 2018

Bhushan Balasaheb Kadam	]		
Age about 46 years, Occ.Business,	]		
Residing at Flat No.304, Silver Crest,	]		
Near Parmar Nagar, Fatimanagar,	]		
Pune – 411 040	]	...	Petitioner

V/s.

Ms.Jyoti Bhushan Kadam	]		
Age about 41 years, Occ.Service,	]		
Residing at B-404, Rohan Ishita Society,	]		
Near Passport Office, Mundhwa,	]		
Pune – 411 036	]	...	Respondent

Mr.Hitesh P. Vyas for Petitioner.
Mr.Ajinkya Udane i/b. Mr.Bharat More for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 4th November 2019.

PC. :-

1] By the present Petition under Article 227 of the Constitution of India, the petitioner-husband/original respondent has taken exception to the Order dated 19th April 2018 passed below Exhibit-132 in P.A.No.556 of 2016, dismissing the said application with costs.

2] Heard Mr.Vyas, learned counsel for the petitioner and Mr.Udane, learned counsel for the respondent. Perused the record.

3] The record indicates that, the respondent-wife has filed the aforestated P.A. No.556 of 2016 under Section 13 of the Hindu Marriage Act, 1955 for divorce from the petitioner. A perusal of plaint would further indicate that, the respondent has alleged that, the petitioner was living in adultery with other women and he was also causing undue harassment and cruelty to the respondent. It is also alleged that, the petitioner was taking suspicion on the fidelity of the respondent. That the petitioner used to assault the respondent and police complaints are filed in that behalf. The details of the such incidents for filing the said Petition have been elaborately mentioned in the petition pending on the file of the Family Court, Pune.

4] The record further indicates that, the petitioner-husband filed application below Exhibit-132 for rejection of plaint on the ground that, though the respondent has categorically alleged that, the petitioner was living in adultery with other two women (whose names are mentioned in the plaint) and the said women are not joined as necessary party in the petition, pending on the file of Family Court, Pune. In support of his contention, the petitioner has relied upon two decisions namely, *Smt.Putuli Das Vs. Dina Nath Talukdar*, reported in (2008) 2 DMC 343 and *Mirapala Venkata Ramana Vs. Mirapala*

Peddiraju, reported in (2000) 2 ALD 723.

5] Mr.Vyas, learned counsel for the petitioner while canvassing the point for necessity of impleading the said women as respondents in the Petition before the Family Court also relied on the said two decisions. He further submitted that, in the absence of joining of the said two women as necessary party, the trial of the said Marriage Petition cannot be proceeded with and therefore the Plaint in the said Petition may be rejected.

6] A minute perusal of the plaint filed by the respondent before the Family Court indicates that, adultery is one of the ground amongst other grounds mentioned in the said plaint. Apart from the said ground of adultery various other grounds are categorically pleaded by the respondent in the petition.

7] As noted earlier, a plain reading of the plaint filed by the respondent would indicate that, specific and categorical averments are made therein pertaining to causing of cruelty, harassment, assault and other acts apart from the act of adultery. Thus the act of adultery by the petitioner is one of the ground amongst the several other grounds raised by the respondent in the Marriage Petition. In view thereof, the decisions relied upon by the learned counsel for the petitioner has no application in the facts involved in the present case. The Trial Court has rightly taken into consideration the fact that, the

Petition is predominantly filed on the ground of cruelty and not on the ground of adultery.

8] After perusing the material available on record and the impugned Order, this Court is of the view that the Trial Court has not committed any error, either in law or on facts while passing the impugned Order. In view thereof, I find no merits in the Petition and the same is accordingly dismissed in *limine*.

[A.S. GADKARI, J.]