

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 172 OF 2019
WITH
CIVIL APPLICATION NO. 270 OF 2019

Niranjan Charudatta Argade .. Appellant

Versus

Mugdha Niranjan Argade .. Respondent

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- Mr. K.K. Holambe Patil for the Appellant
 - Mr. Mahendra Agavekar a/w S.M. Kelkar & Shraddha Chavan for the Respondent
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : OCTOBER 18, 2019.

P.C.:

1. By consent of both the learned counsel, the Family Court Appeal is taken up for hearing and final disposal.

2. This appeal is filed by the husband. The respondent wife had filed a petition for dissolution of marriage on the ground of cruelty. The husband had filed a written statement and raised counterclaim of cruelty by the wife. Neither side was, however, averse to the dissolution of marriage. The Family Court passed the impugned judgment

and decree dated 7.5.2019 holding that the respondent therein was guilty of cruelty and on that ground the dissolution of the marriage was ordered.

3. Learned counsel for the appellant submitted that the appellant objects only to the one portion of the judgment where the Family Court has come to the following conclusion:-

"47. Now I shall deal with the major instances post to the birth of the child. It is the contention of the wife that her father borne the medical expenditure for her delivery. She has testified that the husband took the medical bills and reports of the child for the purpose of insurance claim. The husband encashed the insurance claim. It is the version of the wife that she did not inquire to the husband about the quantum of the insurance claim. It must be noted that in the cross-examination of the wife, even it is not suggested that the husband has not received the insurance claim. It has also come on record that on this point father of the wife has filed a criminal complaint. This goes to show that the husband even caused economic cruelty to the wife."

He submitted that the father of the wife has instituted criminal proceedings against the husband and these findings might hurt the husband in such proceedings.

4. Quite apart from the fact that the criminal proceedings are independent and would be governed by the evidence that may be brought on record, with an entirely different level of nature of proof required, even otherwise we are inclined to delete the above noted paragraph 47 from the said judgment. Even learned counsel for the respondent raised no serious objection to this. Even otherwise, we are satisfied that the evidence on record did not support such conclusion.

5. Under these circumstances, the above noted paragraph 47 shall stand deleted from the impugned judgment of the Family Court. The rest of the findings of the judgment and decree drawn shall remain unaffected. The Family Court Appeal as well as Civil Application are accordingly disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]

Ravindra
M.
Amberkar

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