

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.655 of 2018

Kamlakar Gangaram Naik .. Appellant
Versus
Asha Kamlakar Naik .. Respondents
...
Mr. Viral Rathod for the appellant.
Ms.Pallavi Dabholkar for the respondent.

CORAM: BHARATI DANGRE, J.

DATED : 27th FEBRUARY, 2020.

P.C:-

1 On both the points raised in the Appeal which are put forth as “substantial question of law” I have perused the concurrent findings recorded by the Courts below.

2 In a petition for divorce filed under Section 13(1), 1A and 1B of the Hindu Marriage Act, 1955, the dissolution being sought on the ground of cruelty and desertion, the Civil Judge at Vasai in Marriage Petition No.122 of 2007 has accepted the claim for dissolution of marriage on the ground of cruelty and desertion against the present appellant.

3 The filing of 498 A complaint which resulted in an acquittal by the competent Court was rightly held by the Civil

Judge, to be not amounting to cruelty in absence of any other incidents of cruelty being brought on record.

4 As far as the ground of desertion is concerned, the appellant was unsuccessful in convincing the Court on the ground that there was a desertion at the instance of the wife for the Court held that there were no steps taken even by the appellant to resume the cohabitation and that he was not able to prove through which of his friends/relatives he attempted to re-establish the marital bond. On the other hand, in response to a question on the notice issued for restitution of conjugal rights by the respondent and his willingness to cohabit he had answered in the negative.

5 The said finding by the Courts below has been concurred by the District Judge, Vasai on a similar analogy. Since no question of law has been raised, nonetheless a substantial question of law, the present Appeal do not deserve any consideration at the instance of this Court and hence is dismissed.

6 The decree drawn by the Court below is affirmed.

SMT. BHARATI DANGRE, J