

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****FAM No. 233 of 2016**

- Gopesh Kumar Yadav S/o Late Shri Gorelal Yadav, Aged About 43 Years Caste- Yadav, R/o Bhandari Chowk, Purani Basti Korba, Tahsil And District- Korba, Chhattisgarh

---- Petitioner**Versus**

- Smt. Mamata Yadav W/o Shri Gopesh Yadav, Aged About 36 Years, Caste- Yadav, R/o Bhandari Chowk, Purani Basti Korba, Tahsil And District Korba, Chhattisgarh

---- Respondent

For Appellant
For Respondent

Mr. Sameer Singh, Advocate
Mr. Vinod Kumar Tekam, Advocate

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mrs. Justice Rajani Dubey****Order on Board by Prashant Kumar Mishra, J.****4/1/2021**

1. Heard.
2. This appeal under Section 19(1) of the Family Courts Act, 1984 would call in question the impugned judgment and decree dated 23.9.2016 passed by the Family Court, Korba in Civil Suit No.22A/2015, dismissing the appellant/plaintiff's suit for dissolution of marriage under Section 13 (1)(ia) of the Hindu

Marriage Act, 1955 (in short "the Act, 1955").

3. The plaintiff's case, in brief, is that his marriage was solemnized with the respondent as per the Hindu religion on 9.5.1997. They have three children out of the wedlock, who are residing with the respondent. The *Gauna* ceremony took place after one year of marriage. At that time, the appellant was engaged in a private job. His father died in the year 2000, whereupon, he was granted compassionate appointment in the Irrigation Department in the year 2005.
4. It was further pleaded in the plaint that the respondent loves to move freely and spend huge amounts without having any affinity towards the duties of her matrimonial house and was more attached to her parents house. She used to raise quarrel with the parents of the appellant on trivial issues and used to leave the matrimonial house after raising such dispute. It was also pleaded in the plaint that from the very beginning, the respondent used to persuade the appellant to live separate from his parents. However, except him, since his old aged mother has no other member in the family, he did not want to separate. The appellant was posted at Kharisa from the year 2005 to 2008, during which, the respondent used to meet different people and speak with them over mobile phone during his absence. On being enquired, she used to tell the appellant to mind his own business. This was the reason for her strained relations with his mother also. The respondent's cruel behaviour was informed to her mother and other relatives and

the matter was also tried to be settled through mediation, but it did not yield any result. She used to threaten to commit suicide and also used to terrorise the appellant and his relatives under the shelter and patronage of her sister, who is a police constable. On 26.1.2015, she started quarreling with the appellant by saying that he is not sharing bed with her and was ready to assault the appellant with a knife. At that time, one Sanjay Bhandari came and separated them. She lodged a false report against the appellant, on which, he was kept in detention for the whole night but later on, he was released after pressurising him to sign a compromise deed.

5. In reply, the respondent denied the material allegations in the plaint with additional plea that the appellant has illicit relations with one Mamta Gupta with whom he is presently residing in the house of one Jyoti Pandey. According to the respondent, prior to his joining services on compassionate ground, he was a lawyer and the respondent's mother was working in SECL, therefore, the appellant used to demand money from the respondent's mother, which was complied with on number of occasions. When the respondent objected to his relation with Mamta Gupta, he refused to leave her and thus, it is a case where the appellant himself was responsible for causing cruelty on the respondent and not otherwise.
6. In the course of trial, the appellant examined himself as PW-1. However, he admits the fact of Meeting of the Caste Panchayat when a dispute occurred between them on 26.2.2015. He also

admits to have executed the compromise deed dated 27.1.2015 with a clarification that this was executed on the pressure created by the respondent, but again admits that he did not lodge any report about such pressure created by the respondent or her relatives. The appellant's mother Dharam Bai has been examined as PW-2. She categorically admits that the dispute between the appellant and the respondent was in relation to Mamta Gupta. She also admits that Sanjay Bhandari had intervened and separated the appellant and the respondent, when a quarrel took place on 26.1.2015. Sanjay Bhandari has been examined as PW-3. He admits that in the house where the appellant was residing, a lady namely Mamta Gupta was also residing.

7. Respondent Mamta Yadav has examined herself as DW-1, making categorical allegations about the appellant's relation with Mamta Gupta was the reason for her dispute/quarrel with the appellant. The respondent's mother Shyamkali has been examined as DW-2. She also supports the version put-forth by the respondent. When she was questioned as to whether the respondent was raising quarrels on false pretexts, she stated on her own that if the husband keeps second wife, there has to be a quarrel by the first wife. One Ramprasad Yadav, maternal uncle of the respondent was examined as DW-3. He also supports the case of the respondent. An independent witness Lalit Jangde examined as DW-4 has also supported the respondent.

8. The evidence available on record highly probalises that the appellant had some kind of relation with Mamta Gupta, which was the foundation of their dispute and the respondent left the matrimonial house for this reason. The appellant has not been able to substantiate any such ground, which would be sufficient to be categorised as 'mental cruelty' under Section 13(1)(ia) of the Act, 1955.
9. Merely because the dispute used to occur between the husband and wife, the same would not amount to mental cruelty, when the respondent-wife has her own reasons to be dissatisfied with the appellant as mentioned in the preceding paragraphs.
10. It is not a case where the respondent-wife has left the matrimonial house without any rhyme or reason or was otherwise creating such mental cruelty on the appellant, which has made difficult for the appellant to continue the marital cord.
11. The trial Court has rightly dismissed the appellant's suit for grant of divorce.
12. No case for interference is made out.
13. The appeal being bereft of any substance, is liable to be and is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Rajani Dubey)
Judge

