

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FAMILY COURT APPEAL NO.76 OF 2015

Kartik Narayan Dhawle,
Aged about 37 years,
Occupation-Service,
Residence of Plot No.12,
Ashirwad, Mangaldham Society,
Near Prabhodhankar School,
Dattawadi, Nagpur. .. Appellant

.. Versus ..

Vaishali Kartik Dhawle,
Aged about 35 years,
Occupation-Housewife,
Residence of 19, Jammudeep,
Ayodhya Nagar, Nagpur. .. Respondent

.....

Ms B.R. Hindustani, Advocate holding for Shri A.N. Ansari,
Advocate for the appellant,

Shri S.N. Thengari, Advocate for the respondent.

.....

CORAM : A.S. CHANDURKAR AND
N.B. SURYAWANSHI, JJ.

RESERVED ON : 05.02.2021.

PRONOUNCED ON : 23.02.2021.

JUDGMENT [PER : N.B. SURYAWANSHI, J.]

1. This appeal filed under Section 19 of the Family Courts Act, 1984 by the appellant-husband takes exception to the judgment of the learned Family Court No.4, Nagpur in Petition No. A-732/2010, by which the petition filed by him for judicial separation and in the alternative for a decree of divorce on the ground of cruelty and desertion, was dismissed.

2. Facts, in brief, leading to this appeal are as follows :

The husband approached the Family Court by filing Petition No. A-732/2010 under Sections 10, 13 (1) (i-a) & (i-b) of the Hindu Marriage Act, 1955 seeking judicial separation or in the alternative decree of divorce on the ground of cruelty and desertion contending therein that, the marriage between the husband and the wife was solemnized at Nagpur on 8.5.2007. Out of the wedlock, daughter Purva was born. According to the husband, as per his horoscope, he was Mangalik, therefore, a search was initiated for a girl who was having Mangalik horoscope. As per the Hindu belief, a person having Mangalik Yog has to marry with a person having Mangalik Yog so as to

avoid misfortune. It was contended that in the bio-data of the wife given to them, her birth date was mentioned as 26.9.1993 and her qualifications were given as B.A. final. Her horoscope depicted Mangalik Yog. After the marriage, the wife started residing in the joint family of the husband. She always used to remain silent and avoided conversation with him and the family members. She used to finish her routine work hurriedly and thereafter used to stay alone in the bedroom. She was talking to her maternal family hours together in the bedroom. She used to answer any query by saying Yes or No. She was avoiding to give her educational certificates on the pretext that they were lost. It was further averred that on 18.5.2009, the wife's father gave her leaving certificate and other documents pertaining to her educational qualification. The husband was shocked to know that the actual date of birth of the wife was 27.9.1979 and therefore she was Non-Mangalik. She had failed in BA-II. On coming to know these facts, the husband became nervous. The wife left matrimonial house in the midnight of 19-20.06.2009 without informing anyone. During her search, she was found with her brother and brother-in-law, who were taking her to her maternal home. Though the husband requested her to return to

the matrimonial house, she refused and reported the matter to Wadi Police Station. On the same day, the husband along with his family members went to bring the wife back, but her parents refused to send her and also threatened to involve them in a false case. According to the husband, the wife lodged false complaint on that day. Whenever, the husband tried to bring her back, threats were given to involve him in false cases. The husband further averred that the wife used to give false age to the Doctor so as to suppress her foul play. The wife and her parents have cheated him and his family members by playing fraud at the time of settlement of marriage. There was no communication from the wife and her parents since she went her maternal home on 20.6.2009. The husband and his family members made various efforts and tried to give understanding to the wife to come back but she did not pay any heed to the requests of the husband. The husband also from time to time tried to contact the wife on mobile phone and tried to convince her to come back, but the wife did not respond to his request. These acts of the wife caused mental and physical harassment to the husband which according to him amounts to cruelty. He therefore contended that the wife has deserted him with effect

from 20.06.2009 on account of false complaint lodged by the wife and the husband from time to time was called at Tejaswani Family Counseling Centre at Nagpur, where he was lastly informed that the matter was not likely to be settled between them. On 22.6.2010 the husband was called at Police Station, Wadi where he was informed that the wife was involving him and his family members in a false criminal case. The husband and his family members were required to obtain anticipatory bail. On 3.9.2010, the wife went to the house of the husband in afternoon, when he was at his office and threatened his parents that she will join the company of husband and then involve him and his parents in a false case. Due to these threats, the husband and his parents were always under apprehension that they might be involved in a false case by the wife. Due to the continuous torture by the wife, the life of the husband had become miserable. He was not in a position to concentrate on his work due to continuous harassment by the wife. The husband therefore lost all the hopes that the smooth relations between him and wife were possible. Hence, he filed the petition seeking divorce on the ground of cruelty and desertion.

3. The wife appeared and denied all the allegations of the husband in the petition by filing a written statement. She admitted the marriage and the birth of daughter and the fact that she was living with her parents from 20.6.2009. She denied all other contentions. She averred that at the time of settlement of marriage no horoscope was exchanged, so also no false information was given by her and her parents to the husband in respect of her date of birth and the qualification. She denied that her bio-data was fabricated. According to her, the husband and his family members were greedy and they used to taunt her in filthy language for bringing meager dowry and about her qualification. She had to face miserable life without any fault on her part, due to the harassment of the respondent and his family members. She tolerated all the harassment and taunting contemplating that their behaviour would change. She contended that on 18.6.2009, the husband and his mother mercilessly beat her when she was in her fourth month of pregnancy. On the next day, Kishor and Kiran Bambal visited her house after attending the marriage at Datta Wadi and they found injuries and marks of beating on her person. They informed the same to the wife's parents. After they departed, she was again

beaten and was threatened with dire consequences. Since she apprehended danger to her life, she was constrained to leave the matrimonial home in the midnight of 19-20.6.2009. She took shelter in the house of one Shri Gordey, who informed her parents. Thereafter, her paternal relatives came and took her to the maternal home. She lodged complaint of the said incident with the Police Station, but the police did not take cognizance. It was further averred that on 14.11.2009 she delivered a daughter but nobody from her matrimonial home came to see the child and no inquiries were made of her health. Though her parents tried for reconciliation, their efforts were not fruitful. She claimed that she was ready to cohabit with the husband. She specifically denied giving threats to the husband. She therefore prayed for dismissal of the petition filed by the husband.

4. The learned Family Court, after recording the evidence, dismissed the petition filed by the husband. Hence, the present appeal.

5. Heard the learned Advocate for the appellant and the learned Advocate for the respondent. The learned Advocate for

the appellant vehemently submitted that by giving false information that the wife was mangalik and by giving her incorrect birth date, the wife and her family members have cheated the husband and the same amounts to cruelty. He urged that though the husband has led cogent and reliable evidence on record to prove his case, the Family Court erred in dismissing his petition. According to him, the reasons assigned by the Family Court are contrary to the evidence on record and the impugned decision of the Family Court is liable to be set aside and the petition filed by the husband deserves to be allowed. In support of his submissions, the learned Advocate relied upon the following decisions :

- 1) **V.K. Jain and others .vs. State of M.P. and others. 2012 ILR (M.P.) 800. (The decision of Madhya Pradesh High Court).**
- 2) **Jiwan Kumari .vs. Paramjit Kumar, 2015 (1) PLR 623. (The decision of Punjab and Haryana High Court)**

6. On the contrary, the learned Advocate for the respondent supported the decision of the Family Court

contending that the husband has failed to prove cruelty or desertion on the part of the wife. He submitted that the Family Court has given proper reasonings and taking into consideration the material on record, the Family Court was perfectly justified in dismissing the petition filed by the husband. In support of his submissions, he relied upon the following decisions :

- 1) **Raghunath .vs. Vijaya,
1972 Mh.L.J. 110.**
- 2) **A Premchand .vs. V. Padmapriya,
AIR 1997 Madras 135.**

7. We have heard the learned Advocate for the appellant and the learned Advocate for the respondent and perused the record. After hearing the rival submissions, following points arise for determination :

- 1) Whether the appellant is entitled for decree of divorce.?
- 2) Whether the learned Family Court dismissing the petition of husband is legally correct.?

8. To determine the dispute between the parties, it is necessary to consider the evidence on record. In support of his claim the husband examined himself at Exh.22. He deposed in terms of his pleadings in the petition. In cross-examination, he admitted that before the marriage there were negotiations as well as internal talks. His sister Manisha Tekade had inquired about the education of wife and her family background. He admitted that the wife's bio-data Exh.25 did not bear anybody's signature. He admitted that anybody can prepare the bio-data. He admitted that there was no hard and fast rule about the difference in age of the bride and bridegroom and that a person of less age may marry with a lady of a more age, according to him, it happened rarely. He admitted that the prescription Exh.29 is dated 7.6.2008 and it mentions the wife's age as 25 years and on prescription Exh.30 age of the wife was not mentioned. He further admitted that Exh.29 showed the wife's birth date as 25 years. On prescription Exh.31 dt. 20.8.2008, the age of the wife was shown as 26 years. On prescription Exh.32 the age of the wife was shown as 25 years. The husband admitted that he did not file his 'Janmapatrika' on record. He also admitted that he did not take decisions in his life on the

basis of horoscope. He deposed that that no astrology can predict whether the marriage of a couple would survive or not. He was unable to tell the meaning of Mangalik. He also admitted that he married with the wife as he liked her. He admitted that he married with the wife after verifying all the details. He also admitted that as per the say of his astrologer, he married with the wife. He also admitted that his marriage with the wife was performed with his and his family's consent and it was a arranged marriage. Before the marriage, both the parties had verified each others family background and houses. He admitted to have joined government service in January-2009, prior to that he was in private service and was earning salary of Rs.5,500/-. He denied that as he joined government service, he and his family members started ill-treating the wife. He also denied that his mother was unhappy as the wife was from poor family. He admitted that on 19.6.2009 the wife's sister Kiran and her husband had been to his house. He further deposed that he did not know that at that time his mother told them that the wife was not at home and when Kiran went in the house to attend nature's call, at that time, she found the wife locked in a room by his mother and at that time Kiran saw the beating marks

on the body of the wife. He denied that on 19.6.2009 when his mother told about the visit of Kiran and her husband, he beat the wife and threatened to kill her if she tried to disclose the same to anybody. Though he denied that due to the beating and threatening, the wife left his house and took the shelter in the house of neighbour Shri Gordey, he volunteered that in the midnight the wife ran away from his house and went to the house of Shri Gordey. He however admitted that at that time the wife called her parents on phone and her parents and brother came to the Gordey's house and took her to the maternal home. According to him, it was preplanned. He admitted that the wife filed case with Mahila Cell. Though he denied that after the birth of daughter he did not come to see the child in the hospital, he volunteered that the parents of the wife had prohibited him from visiting the hospital. He denied rest of the suggestions. He stated that his father had retired from defence. He deposed that between 8.5.2007 to 20.6.2009 the wife lived with him. During that period she used to keep quite and only if questions were asked she used to give answer.

9. Jeevan Kuhike, a neighbour of the husband, was

examined as PW-2. He deposed that he was aware that the husband was having Mangalik Yog and there was a search for a suitable bride having Mangalik Yog for him. The bio-data (Exh.25) of the wife was shown to him by the husband, wherein her birth date was mentioned as 26.09.1983 and her qualification was shown as B.A. Final. He has attended the marriage of the husband and the wife. He was told by the husband and his family members that the marriage was settled only after matching the Kundali's of the husband and the wife. According to him, the husband and his family members were well cultured, educated and economically sound. He never heard that the husband demanded dowry from the wife. He deposed that after the marriage whenever he visited the husband's house, the wife was never seen in the hall. On inquiry about her, he was told that she was in her bedroom taking rest. He was informed by the husband and his parents in the month of May-2009 that they were cheated by the wife's family by giving false information about her birth date, time of birth and her qualification and that she was not a Mangalik. He also deposed that in the midnight of 19-20.6.2009, the husband woke him up and told him that wife was not seen anywhere in the house and

hence they started searching her. He knew that on 20.6.2009 family members of the husband went to bring the wife back from her parents house, but returned without her, as the wife refused to accompany them. He deposed that false case was lodged against the husband and his family members. He had seen that the wife was totally indifferent towards her in-laws and the relation between the husband and the wife was always strained due to the aloofness of the wife.

In the cross-examination, he admitted that he was residing in the society of the husband and initially he was residing near the house of the husband, however, thereafter, he shifted on the backside of the husband's house. He admitted to have cordial relations with the respondent. He claimed to have attended the programme of the husband seeing the wife. He also admitted that the marriage between the husband and the wife was settled after verifying all the things in respect of the parties. He admitted that their marriage was properly arranged. Further admission was that he had not seen the dispute in between husband and the wife during his acquaintance with the family. He also admitted that he did not receive any information

of dispute between the husband and the wife from the parents of the husband. He did not know what happened between the husband and the wife on 18-19.6.2009. He further admitted that in the initial two years of the marriage there was no dispute between the husband and the wife in respect of age difference as well as the wife being non-mangalik. He denied the other suggestion that he was deposing at the instance of the husband.

10. Narayan Dhawle, the father of the husband, was examined as PW-3. He supported the case of the husband in respect of matching of the horoscope, search of the bride having mangalik yog, false information having been given by the wife's family etc., he therefore reiterated the contentions of the husband in his deposition. In the cross-examination, he deposed that he retired from defence in the year 2009. In their family, there were no horoscope of his family members. He also admitted that the horoscope of the husband and the wife were not tallied. He admitted that he did not have any document to show that his son was a mangalik. He also admitted that at the time of the marriage the age of the husband was beyond the marriageable age. He also admitted that the wife was related to

him. He admitted that after the marriage the wife cohabited properly with the husband and the husband got service in irrigation department after the marriage. He denied the suggestion, after the husband got government job, as they wanted to perform second marriage of the husband, they started ill-treating the wife and therefore they were insisting that the wife should abort. He admitted that on 19.6.2009 elder sister of the wife and her husband came to their house, however, he denied that they both saw beating marks on the person of the wife and at that time they found that the wife was confined in one room. He denied rest of the suggestions about the wife leaving the house during the night between 19-20.6.2009 and that she went to the house of neighbour Shri Gordey and in the morning, along with her parents, she went to the maternal home.

11. The wife filed affidavit in lieu of evidence reiterating her contentions in the written statement. In the cross-examination, she admitted that their marriage was an arranged marriage and her mother-in-law was in distant relation with her father. She further deposed that the husband's parents had seen

her before the marriage and, thereafter, the marriage was settled and performed. According to her, at the time of first meeting with the husband before marriage, she informed him her birth date as 27.9.1979. She denied that leaving certificate (Exh.35) was given to the husband before the marriage. She deposed that her age mentioned in Exh. Nos.30, 31 and 32 was written by Doctor. She admitted that her husband got service in the year 2009 and at that time, he asked for her leaving certificate for the nomination in the government record. She denied that she avoided to give the same. She admitted that leaving certificate Exh.35 was given to the husband by her father on 18.6.2009. She denied that there was difference in her age in Exh.25 and 35. According to her, in Exh.35, it was correctly mentioned that she failed in BA-II. She denied the suggestion that as the husband came to know that she was not a mangalik, therefore, she had left his home in the night between 19-20.6.2009. He further denied the suggestion that no incident took place on 18.6.2009 and that she was deposing false. She admitted that she did not file any injury certificate in this case about beating. She admitted to have filed case under the Protection of Women from Domestic Violence Act, 2005 and in that she was receiving

maintenance at the rate of Rs.2,000/- per month. She had also filed case under Section 9 of the Hindu Marriage Act, 1955. She denied rest of the suggestions that she was telling lies and that she used to give threats to the husband and his family members and that she had taken gold ornaments and documents with her at the time of leaving the house. She denied that thereafter the husband tried to contact her.

12. Kishor Bambal, brother-in-law of the wife, was examined as DW-2. He deposed that he and his wife participated in the settlement of marriage of the husband and the wife. They had stated the birth date of wife as 27.9.1979 to the husband's parents. The preparation of horoscope and the matching of the horoscope was done by the husband's parents. On 12.6.2009 when they went to attend the marriage at Datta Wadi, since house of the husband was nearby, they went to meet the wife. The atmosphere in the house of the husband was serious. The husband's mother gave them tea. Thereafter, the wife came out, she was crying, there were marks of beating on her face and legs and her ear was swollen. His wife Kiran along with the wife went inside the room. On being enquired about the beating

marks, parents of the husband started abusing at that time the husband was not at home. After return, his wife Kiran told him that there were also beating marks on the back of the wife. The wife was again beaten by her in-laws and was threatened with life, hence in the midnight of 19.6.2009 she took shelter in the house of neighbour Shri Gordey and from there the wife called her parents. Thereafter, on 20.6.2009, in the morning, he along with his wife and other relatives and brother of the wife went to bring the wife back, at that time, the wife's face was swollen due to beating. The clothes worn by her were torn. They went to Wadi Police Station and lodged the report. They referred the matter to Tejaswini Family Counsellor, Ambazari Police Station.

In the cross-examination, he accepted that he was the husband of the wife's sister and he participated in the process of settlement of the marriage. He deposed that the husband's parents had been to the house of the wife and they selected her, thereafter, the further talks of marriage started. He admitted that there was exchange of birth dates of the parties and, thereafter, the marriage was performed. He also admitted that the marriage was fixed as per Exh.25 but he claimed that he had

seen backside of Exh.25 for the first time on the date of deposition. After her marriage, twice or thrice, he went to the house of the wife, but no ill-treatment to the wife was informed to him till 19.6.2009. He denied the suggestion that at the instance of the wife he was deposing false.

13. The evidence on record reveals that the appellant has claimed that he was cheated by the respondent and her family members by telling that she was Mangalik and by giving her incorrect birth date. If we consider the admissions given by the husband in his cross-examination, there appears no substance in his contentions about cheating and non-mangalik status of the respondent. The appellant in his cross-examination has categorically admitted that prior to the marriage there were negotiations as well as internal talks and his sister had inquired about the education of the respondent as well as her family background. The appellant also admitted that he married the respondent as he liked her. He also stated that he did not take decision in his life on the basis of horoscope. The marriage was performed after verifying the background, houses and all the details of both the families. His father in his evidence has

admitted that the horoscopes of the appellant and the respondent were not tallied and there were no horoscope of the family members in their family. He admitted that the respondent was related to him. He deposed that he did not have any document to show that the appellant was a Mangalik. He further admitted that at the time of marriage the age of the appellant was beyond marriageable age. There are also admissions on the part of PW-2, the neighbour, that the marriage between the appellant and the respondent was settled after verifying all the things in respect of the parties. All these admissions belie the case of the appellant that there was cheating on the part of the respondent and her parents at the time of settlement of marriage.

14. In view of these admissions the allegations of the husband that fraud was played by the wife and her family at the time of marriage is also unacceptable and it is liable to be rejected.

15. This Court in **Bai Appibai .vs. Khimji Cooverji**, AIR 1936 Bom. 138, held that :

“A fraudulent misrepresentation or concealment does not affect the validity of a marriage to which the parties freely consent with knowledge of its nature and with the clear and distinct intention of entering into the marriage, unless one of the spouses is induced to go through a form of marriage with the other by threats or duress or in a state of intoxication or in an erroneous belief as to the nature of the ceremony and without any real consent to the marriage.”

16. In that case the plaintiff was a Naykin or a dancing girl by profession and was mistress of several persons from time to time. She married to the defendant. The defendant contended that the marriage was null and void as the plaintiff made false representation and his consent for marriage was obtained. The representations of the plaintiff were that she was the widow of one Ramchandra Kamat and that she was a Brahmin by caste and she was a person of good character. The defendant also alleged that the plaintiff suppressed from him the fact that she was dancing girl by profession and she was mistress of more than one person prior to her meeting the defendant. In these facts also this Court held that such a fraudulent misrepresentation or concealment did not affect the validity of

the marriage.

17. In **Raghunath** (supra), the learned Single Judge of this Court, after considering the above quoted decision and the decisions of various High Courts which were rendered prior to the coming into the effect of the Hindu Marriage Act, 1955, came to the conclusion that Section 12 (1)(c) of the said Act does not speak of fraud in any general way and does not mean any fraudulent misrepresentation or concealment.

18. Thus, according to us, the appellant has failed to make out a case of fraud. Even if it is assumed that there was misrepresentation in respect of the date of birth that does not affect the matrimonial relations between the appellant and the respondent, as we have already observed that the appellant has failed to prove that he was Mangalik and he intended to marry the girl having Mangalik Yog. Admittedly, the appellant got government job after the marriage and prior to the marriage he was in private job, so nothing turned on the respondent being non-mangalik. The material on record further indicates that the appellant and the respondent had normal married life from 2007

to 2009 and only when the appellant asked for educational documents of the respondent and they were made available to him, the appellant started ill-treating the respondent. Even PW-3, father of appellant, has admitted that for initial two years of the marriage, there was no dispute between the appellant and the respondent in respect of age difference as well as the respondent being non-mangalik. According to the respondent, the ill-treatment started only after the appellant got government job. The same appears to be probable from the material on record.

19. The material brought on record by the appellant does not make out any case of cruelty on the part of the respondent. The evidence laid by the husband does not spell out cruelty caused by the respondent to him. The appellant therefore has failed to prove cruelty on the part of the respondent. After careful scrutiny of the evidence on record, we are of the considered view that the appellant has failed to prove cruelty on the part of the respondent.

20. As far as the aspect of desertion is concerned,

admittedly the respondent was living with her parents since 20.6.2009. There are admissions on record of the appellant and his father that on 19.5.2009, respondent's sister Kiran and her husband had been to their house and they met the respondent. As per the evidence led by the respondent she was beaten and her sister and her husband saw the marks of beating on her person. After they left, she was again beaten and threatened with life. Apprehending danger to her life, she had to take shelter in the house of neighbour Shri Gordey. From there, she called her parents and her brother, sister Kiran, her husband and others took her from the house of Shri Gordey to her parents house on 20.6.2009 and on that day, they also lodged Police complaint. This evidence appears to be probable in view of the admissions given by the appellant and his father PW-3 that respondent's sister Kiran and her husband visited their house on 19.6.2007 and the respondent left the matrimonial home in the night between 19-20.6.2009. Even his father PW-3 has admitted the visit of Kiran and DW-2 to their house on 19.6.2007. There is no material on record to show that the appellant tried to bring the respondent back for cohabitation. Except his bare words, the appellant has not laid any evidence in support of the said

contention. We do not find substance in the contentions of the appellant that he tried to bring the respondent back for cohabitation, but he was threatened. We have reason to believe that since the appellant attributed cheating and fraud to the respondent and her parents, it is not possible to believe that he tried to bring the respondent back for cohabitation. The appellant has not even sent a notice calling upon the respondent to join for cohabitation. In these circumstances, the appellant cannot take advantage of his own wrong to claim that respondent has deserted him. From the material placed on record, the contention of the respondent about ill-treatment suffered by her and apprehending danger to her life, she left the matrimonial home, is liable to be accepted.

21. The learned Advocate for the appellant has relied upon the decision in **V.K. Jain and others** (supra) wherein the learned Single Judge of Madhya Pradesh High Court, in the facts of that case, held that at the time of marriage incorrect age of wife was told to the husband's side and after marriage when the documents were obtained by the respondent, it was revealed that at the time of marriage the wife's age was 38 years, whereas

husband's age was only 26 years and the fact of actual age was concealed by the wife. Since wife was 11 years elder than the respondent, the husband, within two months of marriage, filed the proceeding for declaration that the marriage was a nullity, the Family Court allowed the petition of the husband and the High Court confirmed the same. In the proceeding filed by the husband and his relatives for quashing of the FIR filed under Section 498-A of the IPC by the wife narrated the facts of that case, as the High Court quashed the 498-A proceeding in respect of relatives, however, maintained the same against the husband. The authority is distinguishable on facts and therefore is inapplicable to the appellant's case.

22. In **Jiwan Kumari** (supra), the husband had filed petition for divorce on the ground of cruelty, as the wife was of arrogant attitude and indifferent behaviour on the part of the wife. The husband was not in a position to live with the wife because of mental agony, torture and distress. The wife had shown unwillingness to disclose her age. The wife had withdrawn herself from the husband. In those facts the Family Court granted decree of divorce on the ground of cruelty, which

was confirmed by the High Court. In the case in hand the appellant has failed to prove cruelty, therefore, this decision would not help the appellant.

23. The learned Family Court has properly appreciated the evidence placed before it and has recorded correct findings. The learned Family Court has rightly come to the conclusion that the appellant has failed to prove his case for cruelty and desertion and the appellant failed to prove that the respondent has persistently or repeatedly treated him with such cruelty as to cause reasonable apprehension in his mind that it will be harmful or injurious for him to live with her. We are of the opinion that the learned Family Court has properly appreciated the evidence on record and has rightly dismissed the petition filed by the husband.

24. We therefore answer the points holding that the appellant failed to prove cruelty and desertion on the part of the respondent-wife and the learned Family Court was justified in dismissing the petition filed by the appellant.

25. For the aforestated reasons, we find no merit in the appeal filed by the appellant. The appellant has failed to make out any case to interfere with the judgment of the learned Family Court, the appeal is without merit and is liable to be dismissed. Hence, the following order :

O R D E R

Family Court Appeal No.76/2015 is hereby dismissed. The judgment of the learned Family Court in Petition No.A-732/2010 is hereby confirmed. The parties to bear their own costs.

(N.B. Suryawanshi, J.)

(A.S. Chandurkar, J.)