

08.08.2022
SL No.35
Court No.8
(gc)

FAT 688 of 2018

**Smt. Srabani Bhattacharya
Vs.
Arunavo Bhattacharya**

Mr. Subhasish Pachhal,
...for the Appellant.
Mr. Sujit Gupta,
Ms. Amita Gaur,
...for the Respondent.

The appeal is at the instance of the wife.

The husband filed a suit for dissolution of marriage on the ground of cruelty. The learned Trial Court arrived at a finding on perusal of the material evidence of the petitioner that would establish the allegation as to not discharging matrimonial obligations by respondent/wife, making the unilateral decisions considering the welfare of the daughter, threatening the petitioner/husband and in-laws to initiate criminal proceedings or false implication, attempting to commit suicide in order to put pressure on the petitioner/husband, making different allegation regarding character assassination of the petitioner without any proof and refused to co-habit with the petitioner/husband and causing assault to the husband.

We have gone through the order under appeal and, more particularly, Exhibit-3. The evidence would not show that the husband was unwilling to matrimonial life. On the contrary, it appears from the materials on record

that the allegation of illicit relationship with other women was an attempt to humiliate the husband. Exhibit-3 also shows that the respondent threatened to commit suicide.

The parties are living separately since 2011. There is no possibility of any resumption of matrimonial relationship between the parties. The marriage, for all practical purposes, is dead and unworkable. The evidence taken as a whole clearly establishes that there is no possibility of any resumption of matrimonial relationship between the parties. The appellant was able to prove cruelty. In any event, long separation without a healthy matrimonial relationship and the person responsible for such separation without just explanation and/or lawful excuse would amount to cruelty.

On such consideration, we do not find any reason to interfere with the order impugned.

However, the parties are present before us. The husband has paid Rs.15 lakhs (Rupees Fifteen Lakhs) towards permanent alimony to the wife and has returned all gold ornaments. The husband has also issued a cheque for a sum of Rs.5 lakhs (Rupees Five Lakhs) in favour of the daughter towards her maintenance and agreed to pay Rs.5,000/- (Rupees Five Thousand) per month to the daughter in order to meet her monthly expenses. The husband has also agreed before us that he would bear the marriage expenses and all other expenses for the daughter including her higher studies.

The original L.I.C. Policies, four in number, and one ICICI Pru Smart Kid Policy have been handed over to the appellant/wife in Court. The husband has also agreed to pay the premium in respect of the said policies covering the life of his daughter and till the last payment towards premium required to be paid under such policies.

The wife is personally present in Court and has accepted to have received a cheque for a sum of Rs.15 lakhs (Rupees Fifteen Lakhs) for herself and a sum of Rs.5 lakhs (Rupees Five Lakhs) for the daughter towards maintenance. She also has acknowledged return of all gold ornaments, L.I.C. Policies and ICICI Pru Smart Kid Policy.

With the aforesaid observation, the appeal being FAT 688 of 2018 stands disposed of.

This order shall form part of the decree.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)