

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.25 of 2022

=====

Vaibhav Poddar, Son of Late Jagannath Poddar, Resident of C-49, Pocket-6,
Kendriya Vihar-II, Sector-82, P.S.-Gautam Buddha Nagar, Noida, Uttar
Pradesh (U.P.)

... .. Appellant/s

Versus

Niharika Poddar, Wife of Vaibhav Poddar, Daughter of Shrikant Poddar,
Resident of Simri Bakhtiarapur, P.S. - Simri Bakhtiarapur, District - Saharsa,
Bihar.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Ravindra Kumar Singh, Advocate

For the Respondent/s : Mr. Neeraj Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 04-01-2023 Heard Mr. Rabindra Kumar Singh, the learned

Advocate for the appellant/husband and Shri Neeraj Kumar,

learned Advocate for the respondent/wife.

The wife had filed a divorce petition before the
Family Court alleging that though she was married to the
appellant on 25.01.2014 in accordance with Hindu
Religious rites but shortly after the marriage, she was ill-
treated and her personal possessions and jewelry were
confiscated. On the pretext of providing medical treatment



to his father, the appellant/husband, it has been alleged, insisted upon her to bring money from her father.

The petition was contested by the appellant/husband who has denied all such allegation and has stated that the wife had enrolled herself for internship at Agra and from there, she surreptitiously left the matrimonial home, taking away all her belongings along with her father. A report also was lodged by him in Gautam Buddha Nagar police station. An application under Section 9 of the Hindu Marriage Act was also filed by him in which an order was passed against the wife.

The order was sought to be executed at the instance of the Court but then also, the wife did not maintain any relationship. It has further been stated by the appellant/husband that from the photographs, which were brought on record, it clearly appeared that the wife initially was very happy and, therefore, the allegations raised by her that she was attempted to be raped by the other family members of the appellant/husband is absolutely incorrect. He has further contested the petition for divorce on the ground that there is nothing on record to indicate that there



was any demand of money and that also for the treatment of his father, who at the relevant time, worked as a Senior Professor in the Forest Academy at Dehradun and had been paid under his Medi-claim policy.

Nonetheless, the Family Court, after perusing the evidence on record, found that the respondent/wife stayed with her husband only for 65 days and from there, she left her matrimonial home for her parental home and whereafter she never ever joined her husband in matrimonial relationship.

Though the Family Court has not found substance in the accusation of physical assault but from the circumstances, it was gleaned by him that there had not been any relationship thereafter between the spouses.

The Court was of the view that under rarest of the rare circumstances, a wife would like to come out of a matrimonial bondage, unless there are compelling reasons for the same.

The assessment of the Family Court was that the wife did not want to continue with the relationship under any circumstance and precisely for this reason, she had not



asked for any alimony or maintenance. That she was happy, which got reflected from the photographs is also incorrect. The photographs were of the time when she had gone for an excursion with her husband. This does not at all, the Court concludes, is indicative of the fact that the matrimonial relationship continued after she left for her parental home.

On an overall analysis of the circumstances which was reflected from the evidence of the parties, the Family Court was of the view that the marriage had become only mythical and therefore dead which could not have been revived by any flagellation.

Finding such situation, the Court issued a decree of divorce from the date of passing of the judgment i.e., from 06.12.2021.

We have found no reason to interfere with the assessment of the Family Court that there was an irretrievable breakdown of the marriage and that the wife does not wish to continue with the relationship under any circumstance whatsoever.

Any interference with this order would amount to putting undue pressure on the wife which is not required



under the circumstances.

The appeal is thus dismissed.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

Rishi/Krishna-

U			
---	--	--	--

