

Item-5. 24-04-2023

FA 186 of 2016
CAN 3 of 2020

sg Ct. 8

Tanmoy Chowdhury
Versus
Chandrika Dawn

Mr. Tapas Kumar Bhattacharjee, Adv.
Mr. K.K. Paul, Adv.

...for the appellant

Mr. Uttiya Ray, Adv.
Mr. Aranab Mandal, Adv.

...for the respondent

The appeal and the application for additional evidence are taken up together for consideration.

The appellant could not prove cruelty at the trial, although he has alleged that he has been falsely implicated in a criminal trial.

After the decree was passed denying relief to the appellant, the proceeding initiated under Section 498A of the Indian Penal Code was disposed of and in the said proceeding, the appellant was acquitted. This was an additional ground taken by the appellant apart from the other ground, on which the appellant prayed for a decree of dissolution of marriage. Although on the issue of desertion, there could be a doubt but having regard to the subsequent event namely, the acquittal of the appellant in the proceeding initiated under Section 498A of the IPC and also having regard to the nature of the order passed by the criminal court, we are of the view that the appellant was able to establish mental cruelty.

On such consideration, the appeal is allowed.

However, the respondent has agreed to accept a sum of

Rs.4,00,000/- as permanent alimony and a demand draft bearing No. 825150 dated 21st April, 2023 drawn on Indian Bank amounting to Rs.4 lakh issued in favour of the wife is made over in court to Mr. Uttiya Ray, learned Counsel representing the respondent.

The appeal and the application are allowed.

The judgment of the Trial Court is set aside.

The decree of divorce is to take effect from this date.

The department is directed to draw up a decree as expeditiously as possible.

LCR shall be sent down to the learned court below.

(Uday Kumar, J.)

(Soumen Sen, J.)