

Item-10. 03-08-2023

sg Ct. 8

FAT 3772 of 2001
CAN 1 of 2001 (old CAN 10283 of 2001)

Tapas Bandyopadhyay
Versus
Srabani Bandyopadhyay

1. The parties are not represented nor any accommodation is prayed for on their behalf.
2. The appeal is pending since 2001. The appeal was appearing in the warning list of cases on and from 31st July, 2023 with a clear indication that the said matter shall be transferred to the main list on 3rd August, 2023 before this Bench. In spite of adequate notice, the appellant is not represented.
3. The appeal is arising out of a judgement and order dated 18th July, 2001. There is a delay of 40 days in preferring the appeal. Till date no attempt has been made to move the said application. The appellant in spite of adequate notice is not represented. It appears that the appellant is not interested to proceed with the appeal and the application.
4. We have read the impugned judgment carefully and the grounds of appeal. The evidence on record strongly supports the case of the respondent as she was able to establish cruelty both mental and physical by the respondent, which prima facie appears from the summary of the deposition as reflected from the impugned order.
5. In absence of any contrary evidence and materials produced, we do not find any interference with the order passed by the learned Single Judge. There was no stay of the decree. The appellant has filed the appeal on 19th October, 2001 along

with an application for condonation of delay without any intention or desire to move the said application. The appeal as on date, is premature as the condonation of delay was not allowed. In all likelihood the respondent has, by this time, settled their life. In the absence of any willingness on the part of the appellant to move the application for condonation of delay, we are not inclined to allow the application for condonation of delay. The application for condonation of delay being CAN 1 of 2001 stands dismissed.

6. On such consideration, the appeal stands dismissed.
However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)