

27.09.2023.
Item No. 77.
Court No. 1
ap

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
CIVIL APPELLATE JURISDICTION
(Appellate Side)

F.A.T. No. 11 of 2021
In
I.A. No. CAN 1 of 2022

Eva Rani Barman
Versus
Jyotirmoy Barman

Mr. Bikramaditya Ghosh,
Ms. Supriya Singh.

...For the appellant.

Mr. Pradip Bagchi,
Mr. Satyaki Basu.

....For the respondent.

1. The instant appeal is directed against the judgment and decree dated 29th April, 2021 passed by the learned Additional District Judge, Mathabhanga, Cooch Behar in Matrimonial Suit No.36 of 2021.

2. Counsel for the appellant/wife submits that she had instituted a proceeding, inter alia, under Section 498A of the Indian Penal Code and under the Domestic Violence Act against the respondent/husband. He further submits that the criminal proceedings have resulted in acquittal of the husband. In the proceedings under the Domestic Violation Act the husband was directed to deposit a sum of Rs.6,000/- per month as maintenance. The husband has defaulted and has never paid anything.

3. It is submitted that during the proceedings under the Domestic Violence Act, the learned Advocate for the appellant, who is unnamed has obtained signatures of the plaintiff/appellant on certain blank papers and had filed the suit for dissolution of marriage and divorce. It is further submitted that on the very first returnable date, the husband filed a one page written statement where he agrees to divorce. The decree of divorce is passed on admission by the Court below on the same day.

4. Mr. Bikramaditya Ghosh, Counsel for the appellant would submit that his client had no knowledge of any suit filed on behalf of her for divorce. She has never instructed her Advocate to file any proceedings for divorce. He also submits that the decree for divorce obtained is, therefore, a result of collusion and conspiracy between the unnamed Advocate of the appellant and the respondent/husband.

5. This Court has very carefully considered the entire paper book, pleadings on record and the pleadings in the Court below.

6. This Court notes that the appellant has signed and verified the plaint before the Oath Commissioner in the Court below. If the appellant was in fact deceived and/or cheated by her learned Advocate in collusion with her ex-husband into filing a suit for divorce

without instructions after obtaining her signature on certain blank papers, she ought to have lodged an appropriate complaint with the police against the Advocate and her ex-husband, which she has not done.

7. For some strange reason, the appellant has not even named the Advocate in the Memorandum of Appeal or the stay petition. The appellant has not chosen to complain against the said Advocate before any statutory authority like the Bar Council of India.

8. In the backdrop of the above and given the facts and circumstances of this case, this Court is unable to countenance the grounds taken by the appellant against the impugned decree.

9. For the reasons stated hereinabove, F.A.T. No. 11 of 2021 fails and is hereby dismissed.

10. In view of the dismissal of the instant appeal itself, the connected application being CAN 1 of 2022 shall also stand disposed of.

11. The dismissal of the instant appeal shall not prevent the petitioner from taking out any proceedings in accordance with law to pursue any available remedies, that may be available to her if such cause of action survives.

12. There will be no order as to costs.

13. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)