

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.696 of 2019

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Barun Kumar Yadav, Son of Mithila Bihari Yadav, Resident of Village-
Chakmahila, P.S. and District- Sitamarhi.

... .. Appellant/s

Versus

Sujata Kumari, Wife of Barun Kumar Yadav, Resident of Village-
Chakmahila, P.S. and District- Sitamarhi, Ancestral address-Rain Khurka,
P.S.-Runni Saidpur, District-Sitamarhi, Present Address- D/O-Sitaram Rai,
resident of village-Vishwnathpur, P.S.-Duwra, District-Sitamarhi

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raja Ram Rai
For the Respondent/s : Mr. Alok Kumar Alok

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 28-10-2024

Interlocutory Application No. 1 of 2024

This Interlocutory Application has been filed by

the appellant on 01-08-2024 under Section 5 of the

Limitation Act,1963 for condoning the delay of 32

days in filing the instant Miscellaneous Appeal.

2. Considering the averments made in the

interlocutory application, sufficient cause have been

shown which prevented the appellant from filing the

Miscellaneous Appeal in time.

3. Accordingly, this interlocutory application is allowed and the delay of about 32 days in filing the Miscellaneous Appeal is condoned.

4. Accordingly, I.A. No. 1 of 2024 stands allowed.

5. Heard the parties.

6. The present appeal has been filed under Section 19(1) of the Family Court Act, 1984 impugning the order dated 25.06.2019 passed by learned Principal Judge, Family Court, Sitamarhi in Matrimonial (Divorce) Case No. 45 of 2016, whereby and whereunder the matrimonial case filed by the appellant for divorce to the opposite party-Sujata Kumari was dismissed on the ground that appellant was not appearing for about eight months and as claimed by his father that appellant is mentally sick, how a mentally sick person can take a decision to dissolve his marriage with a mentally sound wife-

opposite party, who is ready to lead conjugal life with her husband.

7. It is submitted by learned counsel for the appellant that the appellant was married with opposite party-Sujata Kumari on 24.02.2012 as per Hindu Rites and Rituals and prevailing social custom in presence of eminent persons in a pleasant and conducive atmosphere. The appellant was working as Clerk/ Assistant at Postal Department at Ranchi and just after marriage, he took his wife to Ranchi. It is further averred that after marriage, behaviour of the opposite party towards the appellant was not cordial, due to which the appellant was passing through severe mental stress and was suspecting character and attitude of opposite party. On 20.09.2012, the appellant found the opposite party in compromising position with a person. The appellant, thereafter came along with opposite party to Sitamarhi on 25.09.2013 and dropped her at her parents' house and due to

frustration and upset of mind, since then the appellant did not join his service. It is further averred that well-wishers of both the families intervened and tried to mediate the matter and requested the opposite party to join the appellant to lead a normal conjugal life but she refused to join by saying that since the appellant had left his job, she would not continue her matrimonial relationship with the appellant. Thereafter, a *panchayati* was held and it was decided that appellant will pay an amount of Rs. 6,50,000/- for dissolving his relation with his wife-opposite party and said amount was advanced as one time settlement and at that time, Rs. 3,18,000/- was paid by appellant and remaining Rs. 3,32,000/- was transferred in the bank account of opposite party. It is further averred that since marriage has been dissolved with mutual consent of the parties and an amount of Rs. 6,50,000/- has already been paid to the opposite party, there is no chance of any restoration of conjugal life. Hence, a

matrimonial case has been filed for dissolution of marriage and declaring the marriage between the appellant and opposite party to be *null and void* by a decree of divorce in favour of the appellant, which was dismissed.

8. The opposite party has appeared in person and refuted the contention of appellant to the extent that she had any physical relation with anybody at Ranchi, however, she admitted the precarious mental condition of appellant. She also admitted regarding receipt of Rs. 6,50,000/- from the appellant's side but she contended that parents' of appellant did not provide proper treatment to the appellant and by concealing the fact of mental illness of the appellant, marriage was solemnized. She also admitted that due to mental illness, the appellant was dismissed from the job. Now, the opposite party is not willing to lead the conjugal life with the appellant.

9. In pursuance to the direction of this Court,

both the appellant and the opposite party are present in the Court. The appellant is not willing to continue the matrimonial relationship with the opposite party and submits that an amount of Rs. 6,50,000/- has already been paid as one time settlement to the opposite party for dissolution of marriage. The opposite party also is not willing to continue her matrimonial relationship with the appellant. She also admits to receive an amount of Rs. 6,50,000/- from the appellant's side. Though she alleged that by concealing the mental illness of the appellant, marriage was solemnized and due to unsound mind of the appellant, he has been dismissed from the job.

10. Since the appellant and opposite party both are not willing to continue their matrimonial relationship with each other, the matter is remanded back to the learned Principal Judge, Family Court for fresh consideration, keeping in view the facts and circumstances, as stated above. Both parties are at

liberty to file a joint petition under Section 13(B) of the Hindu Marriage Act for decree of divorce on mutual consent and in that case the learned Principal Judge will decide the matter at the earliest, in accordance with law. Parties are hereby directed to appear before Family Court at 3:00 P.M on 02.12.2024 and they have to co-operate in the matter.

11. Accordingly M.A. No. 696 of 2019 stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
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