



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FAMILY COURT APPEAL NO.4 OF 2023

Appellant : Sau. Pooja w/o Shrikant Kale,
Aged about 24 Yrs., Occ. Nil,
R/o. C/o. Shri Purushottam Bhaurao Dhalwar,
Nandsmith Colony, Ajmire Layout, Morshi,
Tq. Morshi, Dist. Amravati.
– Versus –

Respondent : Shrikant Rameshwarrao Kale,
Aged about 30 Yrs., Occ. Instructor
ITT Barshitakli,
R/o In front of Tarenekar Hall, Rautwadi, Akola,
Tq. & Distt. Akola.

FAMILY COURT APPEAL NO.11 OF 2023

Appellant : Sau. Pooja w/o Shrikant Kale,
Aged about 24 Yrs., Occ. Nil,
R/o. C/o. Shri Purushottam Bhaurao Dhalwar,
Shrivastav Chowk, Old City, Akola,
Tq. and Dist. Akola.
– Versus –

Respondent : Shrikant Rameshwarrao Kale,
Aged about 30 Yrs., Occ. Instructor
ITT Barshitakli,
R/o In front of Tarenekar Hall, Rautwadi, Akola,
Tq. & Distt. Akola.

Mr. A.S. Mardikar, Senior Advocate assisted by
Mr. V.R. Deshpande, Advocate for the Appellant.
Mr. A.R. Deshpande, Advocate for the Respondent.

CORAM : **VINAY JOSHI AND M.W. CHANDWANI, JJ.**
RESERVED ON : **19th DECEMBER, 2023.**
PRONOUNCED ON : **2nd FEBRUARY, 2024.**

COMMON JUDGMENT : (Per M.W. Chandwani, J.)

This order and judgment will dispose of these two appeals, which challenge the impugned common judgment and decree, dated 27/12/2022, passed by the Family Court, Akola. By the said impugned order and judgment, the petitions filed by the appellant-wife as well as by the respondent-husband have been disposed of.

02] The marriage between the appellant and respondent was solemnized on 18/05/2017 at Akola. For clarity, hereinafter the appellant is referred to as 'the wife' and the respondent is referred to as 'the husband'. Just after three months of the marriage, the couple started residing separately from each-other. Since then, the wife is residing with her parents. The wife filed proceedings under Section 9 of Hindu Marriage Act, 1955 (hereinafter referred to as "Act of 1955") for restitution of conjugal rights, whereas the husband filed a petition under Section 12(1)(c) of Act of 1955 for annulment of marriage and in the alternate under Section 13(1)(ia) of the Act of 1955 for decree of divorce on the ground of cruelty.

Pleading of the wife in her Petition for Restitution of Conjugal Rights :-

03] The wife has come up with a case that after the marriage, she went to the house of her husband to lead a happy marital life. In the

matrimonial house, the husband started harassing the wife mentally and physically on the one count or another. She tolerated the cruel treatment of the husband with an expectation that things will change in future and she will lead a happy marital life, but in vain. On 16/08/2017, the husband agreed to get the wife admitted to the course of M.Sc. in Chemistry and pay the fees and requisite charges, but suddenly, refused to pay admission fees without any excuse and dropped the wife off to her parents' house on 17/08/2017. Since then, the wife is staying at her parental house. In spite of various requests, the husband did not fetch her. A meeting took place between the relatives of both the parties. The husband made false allegations against the father of the wife. The husband did not come to fetch her. The wife is willing to cohabit with the husband. Hence, the wife prayed for decree of restitution of conjugal rights.

Pleadings of the husband in reply to the pleadings of the wife as well as pleadings in his petition for divorce on the ground of nullity :-

04] The husband filed written statement to the petition of the wife. The husband also filed petition for annulment of marriage in alternative for divorce on the ground of cruelty. The pleadings in the petition and written statement contain more or less the same facts. The husband came with a case that the parents of the wife informed the husband that the wife is physically and mentally fit for solemnization of marriage and that she has no ailment.

After the marriage, it was revealed to the husband that the wife has some gynecological problem of white discharge since many years. The wife did not allow the husband to consummate the marriage. The behavior of the wife and her relative was causing cruelty. The wife is also suffering from Congenial Ptosis and her left eye always remains open even during sound sleep. The wife and her parents suppressed these facts and played fraud with the husband. Accordingly, the husband prayed for rejection of the petition of the wife and also prayed for decree of annulment of marriage under Section 12(1) (c) of the Act of 1955 on the ground that the consent of the husband has been obtained by fraud. Alternatively, the husband also prayed for divorce under Section 13(1)(ia) of the Act of 1955 on the ground of cruelty.

05] Before the Family Court at Akola, both the petitions were consolidated and common evidence was recorded. After appreciation of evidence on record, the Family Court by the impugned judgment and order dismissed the petition of the wife for restitution of conjugal rights and allowed the petition of the husband for nullity of marriage under Section 12(1)(c) of the Act of 1955 on the ground of suppression of disease Ptosis. Feeling aggrieved with the impugned common judgment and order, the present appeal came to be preferred by the wife.

Submissions :-

06] Mr. Mardikar, Senior Counsel appearing on behalf of the appellant-wife submits that the approach of the Family Court is absolutely incorrect. It is contended that the respondent-husband was well aware about the fact that the wife is suffering from Ptosis well before the marriage as well as the fact that she was operated for the same in the year 2016 by Dr. Maheshwari. The husband could not prove that he was not informed by the wife or her parents about the disease Ptosis before the marriage. According to him, the husband was aware of this fact and is now using this fact as a weapon against the wife by taking recourse of annulment of marriage under Section 12 of the Act of 1955. The Family Court committed serious error by granting a decree for annulment of marriage and refusing the decree for restitution of conjugal rights. The impugned judgment is required to be set aside

07] Next, the learned Senior Counsel submits that the Ptosis is not a life threatening or an infectious disease, which would have any bearing on life of the wife to cohabit and consummate the marriage. The wife has already been treated with a minor surgery for the said disease and has no implication, whatsoever, on her physical appearance. Even, Ptosis does not constitute a ground for divorce under Section 13 of the Act of 1955, therefore, it cannot be

treated as a material fact, and non-disclosure of the said disease would not amount to suppression of material fact. At the most, it can be a suppression of an item of information and cannot be equated with the suppression of material fact. Therefore, the Family Court should not have annulled the marriage under Section 12(1)(c) of the Act of 1955. The sum and substance of the argument of the learned Senior Counsel for the appellant is that the disease Ptosis cannot be a ground for divorce under Section 13(1)(ia) of the Act of 1955 and non-disclosure of the said disease prior to marriage will not be a suppression of material fact as contemplated under Section 12(c) of the Act of 1955.

08] Lastly, the learned Senior Counsel vehemently submits that the husband even after knowledge, as per his own pleadings, with his full consent lived with the wife after the alleged fraud had been discovered. Therefore, in view of sub-section 12(2)(a)(ii) of the Act of 1955, the petition for annulling the marriage should not have been entertained by the Family Court and, therefore, the Family Court committed serious error by ignoring this provision of law.

09] *Per contra*, Mr. A.R. Deshpande, learned Counsel for the respondent-husband, supporting the judgment of the Family Court, has submitted that there is material on record, which clearly establishes that the

husband was not informed neither by the wife nor by her parents regarding the fact that the wife was suffering from Ptosis disease. In the first week of August, 2017, the husband came to know that the left eye of the wife was open, when she was in deep sleep. After confrontation with the wife, he came to know about the said disease and thereafter he could not consummate the marriage. After coming to know about the said disease, within few days, the husband and the wife started residing separately.

10] The learned Counsel further vehemently submits that Ptosis is a contagious and incurable disease, which is a material fact, and the same would have affected the consent of the husband for the marriage. Though the said disease may not seriously interfere with the married life of the husband, but it is of such a nature, certainly if disclosed, would have resulted in the husband not agreeing or consenting to the marriage, and therefore it is a material fact within the meaning of material fact under Section 12(c) of the Act of 1955. The learned Family Court has rightly appreciated the fact and granted the decree of annulment of marriage on the ground of suppression of material fact by the wife. He, therefore, sought rejection of the appeals.

Points for determination :-

11] Having heard the learned Counsel for the respective parties and after going through the pleadings, the following points arise for my

consideration -

- (a) Whether the respondent-husband proves that the wife and her parents had concealed the material fact within the meaning of Section 12(1)(c) of the Act of 1955 and, therefore, he is entitled for decree of annulment of marriage?
- (b) Whether the appellant-wife proves that she has been deserted by the husband and, therefore, she is entitled for decree of conjugal rights?
- (c) Whether the impugned common judgment and order dated 27/12/2022 of Family Court, Nagpur requires interference with, at the hands of this Court?

12] It appears from the pleadings; the wife has come up with a case that the husband has withdrawn from the wife's society. Whereas the husband has come up with a case of concealment of wife's suffering from congenial Ptosis disease. We now turn to the evidence, which has been brought on record by the wife and the husband.

Evidence :-

13] To substantiate her claim and defence as well, the wife has examined herself and Dr. Rajat Maheshwari and filed notice at Exh. 29; copy

of admission at Exh.39; medical papers regarding her treatment; extract of WhatsApp communications; and various other documents. In her examination-in-chief, the wife has reiterated the contents of her petition. The wife has been cross-examined at length. She admitted that till the husband lodged a police complaint, she did not file any complaint before the police; the notice to husband asking him to fetch her was issued only after the husband lodged the complaint. She herself left the matrimonial house and went to her parents. While leaving the matrimonial house, she asked the husband to forget her by saying “bye forever”.

14] Most crucial witness, Dr. Rajat Maheshwari, who treated the wife for Ptosis, has deposed that the wife was suffering from left upper eyelid Ptosis. The wife was operated for correction of that deformity, in which left upper eyelid muscle was removed, whereby the upper eyelid muscles became shortened forever. Due to this surgery, a patient will be suffering from Nocturnal Lagophthalmos, in which eyelid remains partially open while sleeping. This is incurable.

15] The husband has examined himself by filing affidavit of examination-in-chief reiterating the contents of his petition. He filed various documents, such as medical papers; forensic reports of mobiles, DVD and CD containing conversations and various other documents.

Consideration :-

16] Section 12 of the Act of 1955 deals with voidable marriage. Therefore, it will be profitable to reproduce Section 12 of the Act of 1955, which reads thus:

*“**12. Voidable marriages.**—(1) Any marriage solemnised, whether before or after the commencement of this Act, shall be voidable and may be annulled by a decree of nullity on any of the following grounds, namely:—*

[(a) that the marriage has not been consummated owing to the impotence of the respondent; or]

(b) that the marriage is in contravention of the condition specified in clause (ii) of section 5; or

(c) that the consent of the petitioner, or where the consent of the guardian in marriage of the petitioner 4 [was required under section 5 as it stood immediately before the commencement of the Child Marriage Restraint (Amendment) Act, 1978 (2 of 1978)], the consent of such guardian was obtained by force 5 [or by fraud as to the nature of the ceremony or as to any material fact or circumstances concerning the respondent]; or

(d) that the respondent was at the time of the marriage pregnant by some person other than the petitioner.

(2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage—

(a) on the ground specified in clause (c) of sub-section (1)

shall be entertained if—

(i) the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered; or

(ii) the petitioner has, with his or her full consent, lived with the other party to the marriage as husband or wife after the force had ceased to operate or, as the case may be, the fraud had been discovered;

(b) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied—

(i) that the petitioner was at the time of the marriage ignorant of the facts alleged;

(ii) that proceedings have been instituted in the case of a marriage solemnised before the commencement of this Act within one year of such commencement and in the case of marriages solemnised after such commencement within one year from the date of the marriage; and

(iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of 6 [the said ground].”

17] Thus, from the above said provisions, it is manifested that a marriage can be declared void at the option and on the application by the aggrieved party. The husband pressed in service the ground covered under Section 12(1)(c) of the Act of 1955, which envisages such a declaration that if

the aggrieved party can show that his consent to marriage was obtained by playing fraud as to the nature of the ceremony or as to any material fact or circumstances concerning the respondent.

18] Here, the fact is that the wife was suffering from Ptosis. It is not in dispute that in the said disease the condition is characterized by abnormal drooping of one or both upper eyelids, due to weakness of eyelid muscles. It is also not in dispute that the left eyelid muscle of the wife was operated. The Doctor performed eyelid muscle resection surgery, wherein he removed a part of eyelid muscle and consequently upper lid of the left eye became shortened forever. This situation is called Nocturnal Lagophthalmos. It is incurable. In this condition, the eye remains partially open even during sleep.

19] The wife has come up with the case that the husband was informed about the disease Ptosis and also the fact that the wife was operated for the said disease and post operational deformity, prior to the marriage. According to the wife the medical papers in this regard were handed over to the husband prior to marriage. However, record shows that evidence has been brought on record by the husband in the form of conversation between the husband and father of the wife in a meeting held subsequently up to 17/08/2017. In the said conversation, the father of the wife is seen confessing about non-disclosure of the disease Ptosis; the fact about operation of the

wife; and post operational deformity. However, the wife has identified the voice of her father in the conversation recorded in CD during the meeting. Thus, it is clear that the husband was not informed about the disease Ptoxis and post operational deformity i.e. the left eye of the wife remains open even during deep sleep.

20] It would now be necessary to consider, whether the concealment of the fact that a party to the marriage suffers from Ptoxis and operational deformity post-surgery i.e. Nocturnal Lagophthalmos, wherein left eye of the wife remains open during sleep, would be a material fact within the meaning of Section 12(1)(c) of the Act of 1955.

21] The decision of the Single Judge of this Court in case of **Raghunath Gopal Daftardar Vs. Vijaya Raghunath Daftardar**¹ has been relied upon by the appellant, wherein it has been held that mere non-disclosure prior to marriage or concealment of curable epilepsy disease of girl and false representation that she was healthy does not amount to fraud within the meaning of the word used in Section 12(1)(c) of the Act of 1955.

22] Dissenting with the view of learned Single Judge, the Division Bench of this Court in a decision of **Vandana J. Kasliwal Vs. Jitendra N. Kasliwal**² in paragraphs 24 And 25 has held as under:

1 1972 Mh.L.J.110

2 AIR 2007 Bombay 115

“24. Section 12(1)(b) r/w Section 5(ii)(c) of the Act of 1955 was also argued by the learned Counsel for the appellant, but the learned Counsel for the respondent has chosen to restrict his case to Section 12(1)(c) of the Act of 1955, as stated earlier. From the evidence of the appellant Vandana, we can also say that the present case falls under Section 5(ii)(c) r/w Section 12(1)(b) of the Act of 1955, as there were recurring attacks of insanity and the appellant had taken treatment of Dr. Barhale prior to and after the marriage and she was also indoor patient. In this case, the other conditions as laid down in Section 12(2) of the Act of 1955 are satisfied sofar as ground under Section 12(1)(c) of the Act of 1955 is concerned. The petition for annulment was filed on 17-2-2003 and the marriage had taken place on 5-1 - 2003. Thus, the petition was filed within one and half months' of the marriage. This is not a case where the respondent has with his full consent lived with the appellant after the fraud had been discovered.

25. The case of Raghunath Gopal Daftardar v. Sau Vijaya Raghunath Daftardar, AIR 1972 Bom 132 is relied upon by the learned Counsel for the appellant. In that case, it is observed that:

Mere non-disclosure prior to marriage or concealment of curable epilepsy disease of girl and false representation that she was healthy does not amount to fraud within the meaning of that word used in Section 12(1)(c).

It is also observed that:

Section 17 of the Indian Contract Act, 1872 does not apply to a case of fraud under Section 12(1)(c) of the Hindu Marriage Act, 1955.

In our considered opinion, though marriage is

sacrosanct, it requires consent of both spouses or their guardians, if spouses are not capable of giving consent, and it must be a free consent and in that sense, we have to consider whether the consent was given voluntarily. Here aid of definition of fraud, even from the Indian Contract Act, 1872 need not be overlooked and we, therefore, respectfully differ from the view taken by the single Judge in the case of Raghunath Gopal (supra), that mere non-disclosure prior to the marriage or concealment of curable epilepsy disease of girl and false representation that she was healthy does not amount to fraud within the meaning of the word used in Section 12(1)(c) of Hindu Marriage Act, 1955. If regard be had to Section 12(1)(c) of the Act of 1955, it is clear that if a fact or circumstance is so material as to affect decision of giving consent to marriage and if there is fraud regarding the same, may be by express words or even by concealment, then, marriage could be annulled. However, we hasten to make it clear that it is not every fact or circumstance which would be covered by the provision, but it must be substantially something which goes to the root of the matter, which definitely would weigh with any prudent person to change his mind. It must not be easily detectable. The Court would be very circumspect, cautious and pragmatic in identifying such fact or circumstance. In this case, the first part of the written statement itself shows that when query regarding abnormal behaviour of the appellant was made during marriage ceremony, it was stated that it might be because of mental stress due to failure in the examination and for want of sleep.”

23] In another decision of this Court in Pradeep s/o Namdeorao Ambhore vs. Pallavi Pradeep Ambhore³, this Court while dealing with Section

12(1)(c) of the Act of 1955 after discussing various decisions has held thus:

“12. What can be gathered from the aforesaid decisions is that a fact or circumstance which would materially interfere with a happy marital life would be a 'material fact' as also a fact which if disclosed would have resulted in the husband or the wife not agreeing or consenting to the marriage would also be a 'material fact'. In our view, it cannot be said that only such facts and circumstances which would materially interfere with a happy marital life would only be material facts. A fact, though it may not seriously interfere with the marital life of the party but, would be of such a nature, which if disclosed, would result in either of the party not consenting for the marriage, would also be a 'material fact'. In the cases which we have referred to hereinabove, a decree of annulment of marriage is granted where the spouse suffered from epilepsy, the uterus was not in place, the wife had never got the menses, the husband had disclosed inflated income or misrepresented about his job, the wife suffered from chronic periodontitis, etc. In all the aforesaid cases, it is held that the wrongful disclosure of a material fact or the concealment of a material fact like the ones which are referred in those cases, would result in the annulment of the marriage under Section 12(1)(c) of the Act.”

24] Thus, a fact, though it may not seriously interfere with the marital life of the party but, is of such a nature, which if disclosed, would result in either of the party not consenting for the marriage, would also be a 'material fact' within the meaning of Section 12(1)(c) of the Act of 1955.

25] In the present case the wife was suffering from Ptosis. The Doctor performed eyelid muscle resection surgery, wherein the Doctor removed a part of eyelid muscle, whereby upper lid of left eye became shortened forever. Post surgery, she suffers from a condition called Nocturnal Lagophthalmos, which is incurable. In this condition her left eye remains opened even during sleep. Thus, there is a permanent deformity in eyelid muscle of the wife. We are conscious of the fact that this would not materially interfere with a happy marital life including sexual pleasure, but certainly if disclosed would have resulted in the husband not agreeing or consenting to the marriage. It is of course another matter if a party becomes the victim of an incurable disease after the solemnization of the marriage. But, if a girl or a boy, who is of a marriageable age suffers from an incurable disease before the solemnization of the marriage and knows about it, it would be necessary for her/him to disclose the said fact to the party that approaches him/her with a proposal for the marriage. The wife and her parents were aware before the solemnization of marriage that the wife suffers from Ptosis and post operational deformity i.e. Nocturnal Lagophthalmos. It was necessary for them to inform to the husband before solemnization of the marriage. Had the said fact been disclosed, it may result in the husband refusing to consent to marry the wife and, therefore, this would also be a material fact within the meaning of the term “material fact”.

26] This takes us to the submission of learned Senior Counsel Mr. Mardikar that, inspite of getting knowledge of the above said deformity of the wife, the husband lived with the wife with his full consent, therefore, the Family Court should not have entertained the petition in view of proviso contained in Section 12(2) of the Act of 1955. The learned senior counsel took us to the pleadings of the husband in his petition for annulment of marriage wherein he has pleaded that he came to know about the disease and the deformity in the 1st week of August 2017. Thereafter they resided together as husband and wife till 17 August 2017. Mr Mardikar, then submitted that the sequence of pleadings goes to show that after alleged revelation of the fraud, the husband took the wife to Hyderabad for the purpose of consummating the marriage. The submission is that after getting the knowledge of disease Ptosis, they resided as husband and wife, therefore non-disclosure of material fact is condoned by the husband.

27] The decision of Andhra Pradesh High Court in **S. Mahender Vs. Smt Shalini^{*}**, has been relied by the learned Counsel for the wife, wherein it has been held that if the petitioner after the knowledge of fraud resides with the other party that disentitles him to maintain the petition.

28] Reliance is also placed on the decision of this Court in case of *Mayank s/o Indramohan Malhotra Vs. Neha Malhotra (Kohli)*⁵, wherein this Court in paragraph 34 of the decision has held as under :

“34. The provisions of section 12(2)(a), stipulate that a petition for annulment of voidable marriage cannot be entertained in such circumstances. There is nothing on record to show that the appellant cohabited with the respondent as her husband without his full consent after the alleged fraud had been discovered. The burden to show that because of discovery of fraud there was no physical relationship or then the relationship was discontinued, was upon the appellant husband. He has neither pleaded necessary facts nor ruled it out by bringing on record any evidence to that effect. On the contrary, his conduct and conduct of his family members reveal otherwise. In view of this, we are satisfied that the petition filed by the appellant for annulment of marriage could not have been entertained by the Family Court.”

29] Section 12(1)(c) of the Act of 1955 provides ground for decree for annulment of the marriage in cases, where consent has been obtained by force or by suppressing material fact. However, Section 12(2)(ii) of the Act of 1955 is a rider on Section 12(1)(c) of the Act of 1955. If after the force is removed or fraud is discovered, the petitioner continues to live with the other party with his full consent as husband and wife, the petition for annulment of the marriage cannot be entertained.

30] The husband has come up with a case that he came to know about the disease in first week of the August 2017 and also pleaded that in June 2017 he had been to Hyderabad with the wife. Therefore, from the sequence of the paragraphs in the petition, it cannot be said that they went to Hyderabad after the husband got knowledge of the disease. Rather, the cross examination of the wife also shows that they had been to Hyderabad before August 2017. It is matter of record that the husband came to know about the disease in first week of August 2017, whereas the wife resided at the house of the husband till 16/08/2017.

31] The expression used in Section 12(2)(ii) of the Act of 1955 that the petitioner has with **his full consent**, lived with the other party to marriage as husband emphasizes living as husband **with full consent** for whatever period it may be, provided the alleged fraud is condoned. If the husband or the wife, as the case may be, overlooks the alleged fraud and condones it, with the result of reconciliation, whatever may be the period, the petitioner can be said to have lived with full consent with the other party to the marriage as husband or wife, as the case may be. In other words, the condition laid down in Section 12(2)(a)(ii) of the Act of 1955 does not depend upon the lapse of any time after the discovery of the alleged fraud. In fact, if the fraud is condoned and there is a reconciliation, such a reconciliation may be called

with full consent.

32] The case in hand does not show any reconciliation, rather, the husband has come up with case of the non-consummation of marriage. Mere staying at the husband's house for more than a week after the husband got knowledge of the disease, does not amount to condonation of the non-disclosure of material fact. Therefore, bar under Section 12(2)(ii) of the Act of 1955 will not be applicable to the case in hand.

33] Turning to the petition of the wife for restitution of conjugal rights, considering the admission of the wife in her cross examination that she left the house of the husband on her own, is contrary to her pleadings that she was dropped off by the husband to her parental house. Further considering the fact that the while leaving the wife had communicated a message saying goodbye forever, the Family Court has rightly refused to pass a decree of restitution of the conjugal rights. Even otherwise, when the husband has come up with a defence of case of suppression of material fact, which he duly proved, it cannot be said that the husband has withdrawn himself from the Society of the wife without reasonable cause.

34] In view of above we do not find any error or illegally in the impugned common orders and judgment of the Family Court. The learned Family Court rightly appreciated the evidence in their proper perspective. The

order of learned Family Court does not suffer from any infirmity, and therefore, does not require interference from this Court. The appeals are sans merits and, accordingly, we dismiss the appeals.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

At this stage, the learned Counsel for the appellant submits that the appellant will take this order before the Apex Court, therefore, the interim order be continued for a period of four weeks, to which the learned Counsel for the respondent objects.

By order dated 24/03/2023, we had directed the respondent-husband to maintain *status quo* regarding his marital status, if he is not married. The said order was continued from time to time till today. If the husband marries another girl, the position will become irreversible. Therefore, the interim order to continue for a further period of four weeks to enable the wife to approach before the Supreme Court.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)