

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FAT No. 146 of 2024

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CAN 1 of 2024

+

CAN 2 of 2024

+

CAN 3 of 2025

Smt. Banani Karmakar (Dasgupta)

Vs.

Sri Subrata Karmakar

For the appellant : Mr. Arnab Roy,
Mr. Satyam Mukherjee,
Ms. Sayani Ahmed

For the respondent : Mr. Sounak Mondal

Heard on : March 12, 2025.

Judgment on : March 12, 2025.

Sabyasachi Bhattacharyya, J.:

1. The present appeal has been preferred by the defendant/wife against a decree of divorce obtained by the husband.

2. By the impugned judgment and decree, the respondent/husband obtained the divorce on the ground of cruelty and desertion.

Re: CAN 3 of 2025 (compromise petition)

3. CAN 3 of 2025 has been filed by both the parties for recording compromise between themselves, since the parties now agree to stay together and to continue the marriage between themselves.

4. From the averments made in the application, it is evident that the cruelty, if any, as well as the desertion of one spouse by the other, which were the very premise of the divorce decree, has since been mitigated and condoned by the spouses between each other.

5. Hence, on the basis of the statements made on oath by both the parties in CAN 3 of 2025, we take note of the subsequent event as indicated above and come to the conclusion that the grounds, which were existent before the Trial Court, have since been mitigated and condoned between the parties, thereby rendering the divorce decree toothless and futile and denuded of any basis.

6. In such circumstances, the only recourse open to this court is the setting aside of the impugned divorce decree.

7. Accordingly, CAN 3 of 2025 is allowed on consent without any order as to costs.

Re: FAT 146 of 2024

8. We take up the appeal for hearing now.
9. On the grounds as indicated above, FAT 146 of 2024 is allowed, thereby setting aside the impugned judgment and decree of divorce dated February 19, 2024 passed by the learned Additional District and Sessions Judge, Fast Track, First Court at Barrackpore, District- North 24 Parganas in Matrimonial Suit No. 105 of 2015.
10. It is made clear that the marriage between the parties subsists.
11. A formal decree be drawn up accordingly.
12. The pending applications filed in connection with the appeal, bearing CAN 1 of 2024 and CAN 2 of 2024, are also disposed of in the light of the above observations.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)