

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.53 of 2023

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Namo Narayan Choubey, Son of Sri Ram Chaubey, Resident of Village-
Pandey Patti, Police Station- Buxar (Mufassil), District- Buxar.

... .. Appellant/s

Versus

Priyanka Devi @ Babli, D/o Vishnudutt Dubey, Resident of Village- Nadao,
Police Station- Buxar (Mufassil), District- Buxar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sanjay Kumar, Advocate

For the Respondent/s : Mr.Arvind Kumar Pradhan, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

13 24-03-2026 The instant matrimonial appeal under Section 19 (1) of the Family Court's Act has been filed by the husband of one Priyanka Devi @ Babli assailing a judgement and decree of dismissal of Matrimonial Case No. 129 of 2014 filed by the husband / appellant, namely, Namu Narayan Choubey praying for dissolution of marriage by a decree of divorce against the respondent / wife.

2. Factual background leading to the instant appeal is that the marriage of the appellant was solemnized with the respondent according to Hindu Rites and Ceremonies on 2nd of June, 2013 at Buxar. After marriage, the appellant and his newly wedded wife came to his house on 3rd of June, 2013.



Immediately after marriage, the respondent disclosed that her father gave marriage of the respondent with the appellant to save his social prestige. The respondent had already married to another person and she is having her husband. From the very beginning, the appellant noticed that the respondent was talking to some unknown person over her mobile-phone. Further case of the appellant is that his marriage with the respondent was not consummated. The respondent used to threaten her husband saying that she would dissolve her marriage by divorcing him. Once the respondent also tried to commit suicide by cutting veins of her own hand. Hearing the said incident, the father of the respondent disowned her and finally on 10th of August, 2013, the respondent left her matrimonial home without knowledge and consent of the appellant.

3. The respondent filed written statement in the Trial Court admitting the date of marriage with the appellant but denied all material allegations made out against her from the very beginning of marriage. It is submitted by her that from the very beginning, the appellant and his family members were not cordial towards the respondent as her father could not satisfy illegal demand of dowry. On 10th of August, 2013, the appellant and his family members physically assaulted the respondent and



drove her away from her matrimonial home. The father and other relatives of the respondent visited the matrimonial home of the respondent time and again to settle the dispute amicably but failed. Even on 14th of July, 2014, the father of the respondent took her to her matrimonial home but the appellant and his family members did not allow them to enter into the house. As the respondent was physically tortured by the appellant and the other matrimonial relation, she was compelled to lodge a complaint under Section 498A of the IPC against the appellant on 14th of July, 2014.

4. On the basis of the pleadings of the parties, the learned Trial Court framed as many as six issues as hereunder:-

“Issues:

On the basis of pleading of both the parties following issues were settled on 20.04.2017:-

(I) Whether this matrimonial case as framed is maintainable:?

(II) Whether the petitioner has got valid cause of action to file this case ?

(III) Whether the petitioner was subjected to cruelty by the opposite party?

(IV) Whether the opposite party has illicit relation with others prior to the marriage?

(V) Whether the petitioner is entitled for a decree of divorce?



(VI) To what other relief or reliefs, if any, the petitioner is entitled to?"

5. During trial father of the appellant and appellant himself deposed as P.W. 1 and P.W. 2 respectively. On behalf of the respondent, the respondent herself deposed as witness no. 3. Witness no. 1 and 2 are parents of the respondent and witness no. 4 is one Ravi Kumar, a neighbor of the paternal home of the respondent.

6. On independent appreciation of evidence, this Court finds that the P.W. 2 stated on oath that his marriage with the respondent was not consummated. It is also stated by him that the behavior of the respondent was not cordial towards him. Occasionally, there were quarrels between P.W. 2 and his wife. It is ascertained from the evidence of P.W. 1, father of the appellant that he spent Rs. 5 Lakhs in the marriage of his son and the respondent. He heard from the appellant that the marriage with the respondent was not consummated.

7. The said fact was denied on oath by P.W. 3. It is specifically stated by the P.W. 3 that she was subjected to physical and mental torture by the appellant. It is further claimed by the respondent that had the marriage not been consummated between the parties, there would not have been any occasion for the appellant to meet the respondent even



during pendency of the matrimonial case. The respondent in course of his evidence stated on oath that during the pendency of the matrimonial case, the appellant brought her to a hotel at Patna and stayed there as husband and wife. In order to prove the said fact, the respondent submitted the copy of the register of the hotel and also photographs with pen-drive to show that both the parties were sleeping together in a bed.

8. In view of such evidence, this Court does not find any reason in support of the case of the appellant. Marriage between the appellant and the respondent was duly consummated. They stayed together as husband and wife and there is absolutely no evidence of cruelty against the respondent.

9. In course of hearing of instant appeal, the respondent has filed a supplementary affidavit, stating, inter alia, that she has been working as a contractual teacher in a girls school at Kankarbagh, Patna. She earns Rs. 35,000/- per month and the said amount is enough for her livelihood. She does not want any alimony from her husband. However, she does not want dissolution of marriage with the appellant on the ground that in tradition bound Hindu family marital tie is considered as a sacred bond made in heaven in order to maintain her social status before her family members and society at large. The



respondent wants to maintain her marital tie as a mark of recognition of her marriage.

10. We give due honor to the sentiment of the respondent. At the same time, we find that the Trial Court did not commit any error in dismissing the matrimonial case filed by the appellant because the appellant failed hopelessly to prove any of the grounds mentioned in Section 13 of the Hindu Marriage Act for which he deserved to get a decree of divorce.

11. As a result, the instant appeal is dismissed with cost.

12. The judgement and decree of dismissal of the Matrimonial Case No. 129 of 2014 passed by learned Principal Judge, Family Court, Buxar vide a judgement and decree dated 16.11.2022 and 22.11.2022, respectively, is affirmed.

(Bibek Chaudhuri, J)

(Chandra Shekhar Jha, J)

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