IN THE HIGH COURT OF JHARKHAND AT RANCHI

F.A No. 64 of 2021

Prem Ranjeet Kumar Suraj, aged about 38 years, S/o Mahendra Das, resident of Qrs. No. 3300, Sector-12/C, Bokaro Steel City, P.O. & P.S. Sector-12 District Bokaro ... **Appellant**

Versus

Munni Kumari @ Moni, aged about 29 years, D/o Permanand Das, resident of village Ghusaith, Piri Bazar, P.O. Abhaypur, P.S Piri Bazar, Dist. Lakhisarai, Bihar **...** **Respondent**

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Appellant: Md Shaukat Eqbal, Advocate
Md Shadab Eqbal, Advocate
Mr Ankit Raj, Advocate
For the Respondent: Mr Maneesh Kumar, Advocate

Reserved on: 14/10/2026 **Pronounced on:27/10/2026**

***Per*: Manoj Prasad, J.**

1. Heard Md Shaukat Eqbal, Advocate who appears with Md Shadab Eqbal and Mr. Ankit Raj, learned counsel appearing on behalf of the appellant and Mr. Maneesh Kumar, learned counsel appearing on behalf of the respondent.

2. This appeal has been filed by the appellant namely Prem Ranjeet Kumar Suraj impleading the Opposite Party as respondent namely Munni Kumari challenging the judgment

and decree passed by the Court of the Principal Judge, Family Court, Bokaro in Original Suit No. 02 of 2017, which was instituted by the present appellant under Section 12(1) (b) of the Hindu Marriage Act, alleging that the marriage was performed in contravention of the condition specified in Section 5 (ii) of the Hindu Marriage Act, i.e. the respondent was incapable of giving a valid consent to it, in consequence of unsoundness of mind and even if, capable of giving a valid consent, has been suffering from a mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children.

3. The learned Trial Court, by the impugned judgment and decree, dismissed the plaintiff's suit on contest, however, without costs. The learned Trial Court held that the respondent was not suffering from any disease prior to her marriage, and there was no evidence of any mental illness, nor was she suffering from any other disease as alleged by the appellant.

4. Briefly stated, the facts of the case are that the appellant filed the application for declaring the marriage as null and void, alleging, inter alia, that the marriage between the parties was solemnised on 17.11.2016, and after marriage, they lived together at Bokaro as husband and wife.

5. However, the appellant discovered that the respondent was incapable of cohabiting with the appellant and that it appeared that she was suffering from some unsoundness of mind or some Neuro problem which was existing before the marriage, which fact was concealed and marriage was got to be solemnised. It is also alleged that the respondent was suffering from epilepsy/paralysis. On account of this mental disorder/Neuro problem, marriage could not be consummated. Further, the respondent informed the present appellant that she had never consented to the marriage as she was in love with another boy. She stated that the marriage was only solemnized due to pressure from her family. It is stated that the cause of action arose on 17.11.2016 when the marriage was solemnized, and on subsequent occasions when the respondent committed fraud and misrepresentation against the appellant. The cause of action finally arose on 07.12.2016 when the respondent returned to her parental home. Consequently, the present suit was instituted on 04.01.2017.

6. The respondent appeared and contested the claim of the appellant, alleging, inter-alia, that the entire set of allegations are false and baseless. Defending her case, she alleges that she was subjected to cruelty by the appellant for which a case Under Section 498A and other sections of the IPC were also

instituted. Allegations of mental illness or recurrent attack of epilepsy/paralysis is also denied and allegations of having made any attempt to commit suicide is also denied. It is also stated that no fact was ever concealed before marriage and the allegations are all concocted and baseless.

7. Based on the pleadings, the learned Trial Court framed several issues, including the issue as to whether the respondent was incapable of giving valid consent due to her unsoundness of mind or has been suffering from a mental disorder of such a kind and to such an extent as to be unfit for marriage and procreation of children. One additional issue was also there, i.e. whether the respondent was subjected to cruelty and torture by the petitioner and his family members for demand of additional dowry.

8. Based on the issues and pleadings, witnesses were examined on behalf of the parties. Two witnesses were examined on behalf of the appellant, including the appellant himself and his father and three witnesses were examined by the respondent, which included the respondent, her father and her brother. Two medical prescriptions dated 27.5.2017 and 11.7.2017 of the respondent of Shree Krishna Sewa Sadan, Lakhi Sarai, are marked as Ext. 1, while a photocopy of the scan report

dated 27.05.2017 is marked as Ext. 1/1. No documentary evidence is there on behalf of the respondent.

9. The learned Trial Court, after considering the oral and documentary evidence, concluded that the suit, as framed, was maintainable and that the appellant had a valid cause of action. However, on consideration of the remaining issues, i.e., Issue Nos. 3, 4 & 5, the learned Trial Court concluded that the appellant failed to prove the existence of any illness, particularly the illness alleged by the appellant in the application for declaring the marriage null and void under Section 12 of the Hindu Marriage Act. The learned Trial Court also observed that, in the lengthy cross-examination of the respondent, nothing could be discerned to establish the appellant's case, and accordingly dismissed the appellant's suit.

10. Md. Shaukat Eqbal, learned counsel appearing for the appellant during the course of argument, submits that the fact that the marriage has not yet been consummated is not in dispute, and that the respondent was living with her parents is also not in dispute. The marriage was solemnised, but it could not be consummated. Mental illness was a fact discovered by the appellant while he was staying with the respondent. However, in all fairness, learned counsel concedes that there

is no documentary evidence regarding the respondent's mental illness. It is stated that the marriage was solemnised in the year 2016, and despite the lapse of about 10 years, to date the marriage has not been consummated, as the respondent is unfit for consummation of marriage and is suffering from various mental illnesses. Hence, the prayer is to allow the appeal by setting aside the impugned judgment and declaring the marriage between the parties to be nullity in the eyes of law.

11. Per contra, Mr. Maneesh Kumar, learned counsel appearing on behalf of the respondent, submits that an entirely new plea is taken during the course of argument. Under Section 12 of the Hindu Marriage Act, certain marriages which fall within the purview of the provisions contained in that Section are voidable at the instance of the party affected. In this case, the marriage could have been avoided, and apparently the appellant had taken steps by instituting the suit for a declaration that the marriage is null and void. Therefore, in this appeal, he cannot take the ground of dissolution of marriage by a decree of divorce, which is not within the ambit and scope of hearing and determination by this Court. So far as the case of the appellant is concerned, that the respondent was suffering from mental illness and was

incapacitated to give consent, there is no material on the record, and hence the prayer is to dismiss the appeal.

12. Having heard the rival contentions of the parties, the only point for determination which falls for our consideration is ***whether the appellant has proved by sufficient evidence that the respondent was incapable of giving valid consent to marriage, or was suffering from any mental illness, i.e., unsoundness of mind, so as to render her incapable of giving valid consent, or that she was unfit for procreation of a child.***

13. The above point for determination requires our consideration. It is true that there is pleading to that effect, but the law is settled that pleading is not a substitute for proof and facts pleaded, if not proved, are of no consequence.

14. Admittedly, as fairly conceded by the learned counsel for the appellant, there is no documentary evidence on record to corroborate the allegations of mental illness against the respondent. The two documents marked as Ext. 1 and 1/1, being copies of medical prescriptions, are not indicative of any history of mental illness. The report of Shree Krishna Sewa Sadan is merely an ultrasonography report of a gravid uterus, and the impression shows a single intrauterine gestation corresponding to a gestational age of 29 weeks and two days.

Under those circumstances, these documents in no way corroborate the case of the appellant.

15. On the other hand, the respondent has been examined as a witness, respondent witness no. 3, before the Trial Court. In her examination-in-chief on affidavit, she has supported her contentions as per her defence, and she has been subjected to lengthy cross-examination, which continued for three days, and has stood the test of cross-examination, with no material coming to support the case of the appellant.

16. If the appellant's pleading is also examined, it is evident that the appellant has stated that the respondent informed the appellant that she had never consented to this marriage, rather she was in love with another boy. Such a contention in the appellant's pleading, in fact, displaces the allegations of mental illness or mental incapacity. Ext. 1/1 also demolishes the appellant's claim under Section 5 (ii)(b) of the Hindu Marriage Act.

17. Having considered the materials on record and the arguments advanced on behalf of the parties, we are of the considered view that the point for determination, as formulated by us, stands answered in favour of the respondent and against the appellant. Consequently, it is held that the appellant failed to make out any case under Section

12 of the Hindu Marriage Act read with Section 5 (ii)(b) of the said Act.

18. This appeal is therefore dismissed, however, without costs.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

October 27, 2026
N.A.F.R.
Anjali/-
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