



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

SECOND APPEAL NO.253 OF 2025

APPELLANT

(Ori. Respondent)
ON R.A.

:- Sau. Trupti W/o Jayant Admane,
Aged about 25 years, Occupation –
Household, R/o Dwarkanagari, Warora, Tah.
Warora, District – Chandrapur.

..VERSUS..

RESPONDENT

(Ori. Petitioner)
ON R.A.

:- Shri Jayant S/o Suresh Admane,
Aged about 37 years, Occupation – Service,
R/o Naginabad, Swawlambi Nagar,
Chandrapur, Tah. and District – Chandrapur.

Mr. B.B. Pantawane, Advocate for Appellant.
Mr. R.M. Tahaliyani, Advocate for Respondent.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **07/01/2026**

ORAL JUDGMENT :

1. The present appeal takes exception to the concurrent decrees of divorce passed by the learned 2nd Joint Civil Judge Senior Division, Chandrapur, in Hindu Marriage Petition No.316 of 2021 which was confirmed vide judgment and decree dated 19.10.2024, passed by the learned District Judge-1, Chandrapur, in Regular Civil Appeal No.10 of 2024.

2. The respondent-husband had filed the aforesaid Hindu Marriage Petition seeking divorce on the ground of desertion by the wife without justifiable reason for a period of two years and also on the ground of cruelty, alleging that the appellant-wife had married with one Mr. A. The marriage between the parties was solemnized on 05.07.2019. The appellant-wife is staying at her parental house shortly after the marriage from 15.08.2019. The divorce petition was filed by the respondent-husband on 27.09.2021. The allegation with respect to cruelty is that, the appellant-wife was in relation with one Mr. A before the marriage and subsequently married him on 02.07.2025. The parties had also filed a petition for divorce and mutual consent initially however before the said proceeding was decided, the appellant-wife withdrew her consent. The respondent-husband has examined himself and other four witnesses in support of his case. He placed on record photographs regarding marriage of the appellant-wife with Mr. A. The photographs are marked at Exhs.84 to 97. The appellant-wife has raised a contention that the photographs were morphed and had also filed Criminal Complaint Case No.366 of 2021 against the said Mr. A.

3. An inquiry under Section 202 of the Code of Criminal Procedure, 1973, was ordered in the criminal case in which it was

found that the photographs of appellant's marriage with Mr. A were not morphed and were, in fact, genuine. This report under Section 202 is based on expert opinion. The said report was also filed before the learned trial Court. In the light of such evidence, the learned trial Court has accepted the contention with respect to cruelty.

4. As regards desertion, the respondent-husband has deposed that the appellant-wife is residing at her parental house since 15.08.2019 without any justifiable reason. The appellant-wife has not conducted cross-examination of the husband-respondent. The evidence has gone unchallenged. The appellant-wife did not lead evidence. In such circumstances, the learned trial Court has granted decree of divorce on the ground of cruelty and desertion without justifiable reason.

5. Being aggrieved by the aforesaid decree of divorce, the present appellant preferred appeal being Regular Civil Appeal No.10 of 2024, which is also dismissed on re-appreciation of evidence by the learned First Appellate Court. The present second appeal is filed challenging the said concurrent decrees.

6. Mr. Pantawane, learned Advocate for the appellant, contends that the photographs, on the basis of which the conclusion with respect to the second marriage is drawn by the learned Courts,

are secondary evidence which was not admissible in evidence for want of permission to lead secondary evidence. He has placed reliance on the judgments in the case of *State of Gujrat ..vs.. Bhupendra*¹ and in the case of *Jai Prakash Singh ..vs.. State of Bihar*², in support of his contention.

7. Perusal of the record indicates that the photographs of the marriage were taken from the mobile phone of the respondent-husband and were printed in a laboratory. The owner of the said laboratory was examined as a witness. A certificate under Section 65B of the Evidence Act, 1872, is also filed on record. The said photographs are thus legally admissible.

8. Apart from this, the objection is not to the admissibility of the photographs but to the mode of proof of the said photographs. It is not in dispute that no objection was raised with respect to the mode of proof of the said documents while the documents were marked as exhibits by the learned Court. It is well settled that an objection to the mode of evidence cannot be raised if such objection is not raised before the learned trial Court while the document is marked as an exhibit. Reliance in support of this legal proposition, can be placed on the full bench decision of this Court

1 1991 CRI.L.J. 978

2 2006 CRI.L.J. 4245

in the case of *Hemendra Rasiklal Ghia ..vs.. Subodh Mody*³. The allegations of cruelty are thus duly proved.

9. As regards desertion, the testimony of respondent-husband that the appellant-wife has deserted his company from 15.08.2019 without any justification has gone unchallenged. The petition is filed on 27.09.2021 i.e. after completion of two years from the date of desertion.

10. The evidence of respondent-husband and his witnesses has gone unchallenged. Adverse inference also needs to be drawn against the appellant-wife for not entering the witness box.

11. In the light of the above, no substantial question of law arises for consideration. Second Appeal is therefore **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

C.L. Dhakate