

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.236 of 2018

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Reena Singh @ Chunni @ Rina Kumari Wife of Rakesh Singh, Resident of Village- Virpur Singhara, Gandhi Tola, P.O.- Singhara, P.S.- Mahua, District- Vaishali, Naihari, D/o Murlidhar Singh, Village- Shambhopur, Kowari, P.O.- Asoi, P.S.- Sarai, District- Vaishali.

... .. Appellant/s

Versus

Rakesh Singh S/o Late Kamal Kishore Singh, Resident of Village- Singhara Gandhi Tola, P.O.- Singhara, P.S.- Mahua, District- Vaishali. At present Bertilananm Marketing Service India Pvt. Ltd. Arvita Service, Rakesh Singh 10151 DLF Super City, Sector 25, Phase- 2, Building No. 8, Floor No. 15, Near Infinity Town, Gurgaon- 12200, Haryana.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shyameshwar Kumar Singh
For the Respondent/s : Mr.Rajiv Prashant

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 06-08-2025

Heard the parties.

2. The appellant has come up in this appeal against judgment and decree dated 27.01.2018 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Divorce Case No. 36 of 2012, whereby the petition filed by the respondent under Section 13(1) of the Hindu Marriage Act, 1955 (in short 'the 1955 Act') seeking



dissolution of marriage by a decree of divorce, has been allowed.

3. The pleaded case of the respondent in his petition under Section 13 (1) of the Hindu Marriage Act, 1955 is that the marriage of the appellant was solemnized with the respondent as per Hindu custom and rites on 03.12.2004. After marriage, the appellant came to her *Sasural* where she was being kept with all honour and dignity by the family members of the respondent. The appellant stayed at her matrimonial house for three months and during her stay at her matrimonial house, the behaviour and other activities and gestures reflected that she was not ready to abide by the culture and dignity of her matrimonial house. In March 2005, she returned to her parents' house. In July 2005, she again came to her *Sasural* and stayed there for six months and during this period, she broke all the family culture and prestige and showed detachment towards the inmates of her matrimonial house. She used to go her *Maike* without asking or taking permission from her husband and other in-laws family members. She always showed cruel



behaviour towards the respondent and other family members and she pushed the life of the respondent in hell. Sometimes she ill treated with the old father of the respondent and compelled him to live on his own fate without any aid by her. The respondent made every possible steps to stop the appellant from such an ignorant and cruel behaviour towards him and other family members but her behaviour towards his family did not change, as a result of which, due to cruel behaviour of the appellant, the father of the respondent went into deep depression and ultimately died prematurely as respondent happens to be his only son.

4. The further case of the respondent is that the appellant never extended any service to her ailing father-in-law who ultimately died and she also did not attend the respondent when he met with an accident and his both upper limbs and back got fractured in 2010. The respondent also alleged that matrimonial relationship did not consummate as she always denied to have conjugal relationship with the respondent.

5. The appellant has completely failed to



discharge her matrimonial obligation towards her husband and other in-laws members. The actions/misdeeds of the appellant have caused great torture and harassment in the mind of the respondent. This causes enormous pain and grief in the mind of the respondent and he found that in spite of giving best possible love and affection, there was no change in her behaviour towards him, his parents, relations and friends. The appellant has left the society and company of the respondent and went to her *Maike* in September, 2007. The matrimonial relation between the appellant and respondent has already irretrievably broken down and there is no hope of restoration of their conjugal life.

6. After filing of the Matrimonial Case, summons were issued to the opposite party/appellant. She appeared and filed her written statement in which she has stated that all the allegations made by the respondent against the conduct and behaviour of the appellant was denied and it has been averred that the appellant was mentally and physically tortured by the respondent for non-fulfilment of dowry demand and in December, 2007 she was forced to



leave her matrimonial house and she took shelter in her *Maike*. This Divorce case is said to have been filed on false and concocted grounds only to oust the appellant from the matrimonial life of the respondent. The appellant, therefore, prayed that divorce petition filed by the respondent is fit to be dismissed.

7. After framing of the issue and material evidences available on record, learned Principal Judge, Family Court, Vaishali at Hajipur held that the appellant-wife has treated her husband with mental cruelty. Accordingly the suit has been decreed on contest under Sections 13 (1) of the Act and accordingly the marriage solemnized on 03.12.2004 between the parties was dissolved on the ground of cruelty and desertion. The appellant-wife, aggrieved by the said judgment of the learned Family Court filed the instant appeal before this Court.

8. Learned counsel for the appellant-wife submits that the learned Family Court has erred in law and facts both in allowing the divorce petition filed by the respondent-husband. Learned counsel has further



submitted that the divorce petition has wrongly been allowed on the ground of cruelty, rather the appellant-wife had been treated with cruelty at her matrimonial home and she had only availed her legal remedies by filing cases as regards the cruelty meted out to her and also as regards the demand of dowry by the respondent-husband and his family members, however the same have been wrongly taken against the appellant. It is further submitted that the Family Court has wrongly concluded that the appellant had deserted the respondent-husband, whereas it was the respondent, who had compelled the appellant-wife to leave her matrimonial home.

9. It is further submitted on behalf of the appellant that appellant-wife has filed Maintenance Case No. 191 of 2012 u/s 125 of the Code of Criminal Procedure before learned Principal Judge, Family Court, Vaishali at Hajipur wherein vide order dated 27.03.2017, she is getting Rs. 6000/- per month as interim maintenance.

10. It is further submitted that no efforts were made by the Family Court to reconcile the matter between



the parties and no permanent alimony was decided. It is therefore contended that the findings returned by the Family Court are not sustainable in the eyes of law.

11. We have heard learned counsel for the appellant and perused the concerned record of Family Court as well as the impugned judgment.

12. From perusal of the case records, it appears that after framing of issue, evidence of the applicant/respondent was started and ultimately on 16.06.2017, his evidence was closed and on the next date i.e. 28.07.2017, none appeared on behalf of the opposite party/appellant and on further next date i.e. 01.09.2017, the evidence of the opposite party/appellant was closed. The record also shows that on 21.12.2017, a petition was filed to recall the said order of closing the evidence of opposite party/appellant which was rejected vide order dated 19.01.2018.

13. It also appears from the records of the Family Court that notice was not served to the opposite party/appellant and only a paper publication was issued regarding which the appellant's argument that she belongs



to a poor family and corona pandemic was in vogue at that time appears to be justified and reasonable for proper and complete adjudication of the case. The evidence and pleadings of both sides must come on record which have not been done in this case.

14. So, in this background, the argument advanced on behalf of the appellant that proper opportunity was not given to her appears to be convincing and it requires consideration. Sufficient opportunity ought to have been given to the opposite party/appellant to adduce her evidence in support of her pleadings which was not given by the Family Court.

15. Accordingly, the judgment and decree dated 27.01.2018 passed by the learned Principal Judge, Family Court, Vaishali at Hajipur in Divorce Case No. 36 of 2012 is set aside.

16. The matter is remanded back to the Principal Judge, Family Court, Vaishali at Hajipur to decide the case on merits after granting opportunity to both the parties to adduce their evidences within a period of three months from the date of receipt of a copy of this order. Parties are



directed to co-operate in the matter.

17. Pending I.A(s), if any, stand disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	AFR
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