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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAT.APP.(F.C.) 146/2020 & CM APPL. 30682/2020

HARISH KUMAR Appellant

Through: Mr. Arvind Singh and Mr.Naman
Dwivedi, Advs.

versus

SARITA Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **06.10.2021**

1. The present appeal is directed against the judgment dated 25.02.2020 passed by the learned Principal Judge, Family Court, East in HMA No. 292/2017 preferred by the appellant/petitioner.

2. By the impugned Judgment the petitioner's divorce petition under Section 13 (1) (ia) of the Hindu Marriage Act, to seek divorce from the respondent on the ground of cruelty, has been dismissed since the Family Court found that the petitioner had not been able to establish the said ground. The parties were married on 20.04.2008 according to Hindu rites and ceremonies. From their wedlock, two children i.e., a son and a daughter were born on 25.09.2009 and 09.03.2012 respectively. Both the children are residing with the respondent wife. The petitioner has been residing separately since October, 2014. He preferred the aforesaid divorce petition

on 13.10.2014. In paragraph 18, the Learned Principal Judge has called out the allegations of matrimonial misconduct alleged by the Appellant. The same reads as follows:

“18, The pleadings of the parties have been noted in earlier part of this judgment in some detail. The allegations of the petitioner against the respondent are as follows:-

(a) The respondent was not doing household work.

(b) The respondent used to misbehave with the petitioner and his parents.

(c) The respondent caused separation of the petitioner from his parents.

(d) The respondent was going to her parental house quite frequently and the parental family of the respondent was interfering with the matrimonial life of the parties to this petition.

(e) In March 2013, the respondent made a complaint to police which led to filing of a Kalandra under Section 107/151 Cr.P.C. against the petitioner.

(f) The parents of the respondent went to the house of the married sister of the petitioner and brother of the respondent and created nuisance.

(g) On 03.10.2014, the respondent assaulted the petitioner and caused scratch marks on his chest and shoulder by her finger nails.”

3. The Family Court has held that the allegations are bereft of particulars in pleadings and remained unsubstantiated during the trial. Consequently, the divorce petition was dismissed.

4. The submission of learned counsel for the appellant is that the Family Court has disregarded the judgments of the Supreme Court which have been taken note of in the impugned judgment itself. He submits that the respondent was convicted under Section 323 IPC for causing simple hurt to the petitioner. Despite that being the position, the Family Court has

discarded the said incident while discussing the merits of the case. He further submits that serious allegations have been made against the petitioner by the respondent wife-to the effect, that he demanded dowry and he was a drunkard, neither of which has been substantiated before the Family Court. Learned counsel submits that the aforesaid baseless and false allegations also tantamount to causing mental cruelty to the petitioner husband.

5. Having heard the learned counsel for the appellant and having perused the impugned judgment we do not find any merit in the same. In our view, the Family Court has correctly appreciated the facts and the law. Normal wear and tear in marital relationship is to be expected, and cannot be a reason to end the relationship. Hindu Marriage is a sacrament, and the parties have two minor children, who are the responsibility of both the parents to look after. The Family Court has noted that the petitioner was also picked up by the police and booked under Sections 107 and 151 Cr.P.C., on the complaint of the respondent wife of his assaulting her in an inebriated condition.

6. The allegations made by the respondent wife with regard to the petitioner demanding dowry and indulging in alcohol consumption, in our view, do not tantamount to making serious allegations impinging on the character of the petitioner, to such an extent, that they would be the cause of immense mental agony and cruelty to the petitioner such that it would make it impossible for the petitioner to live with the Respondent wife. Moreover, the past conduct of the Appellant shows that the allegation of the Appellant indulging in drinking of liquor is not false. We, therefore, do not find any reason to interfere with the impugned judgment.

7. The appeal is dismissed.

VIPIN SANGHI, J

JASMEET SINGH, J

OCTOBER 6, 2021/sr