



IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

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HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 8<sup>th</sup> OF JULY, 2026

FIRST APPEAL No. 483 of 2022

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Appearance:

*Shri Akshat Kumar Jain - Advocate for the appellant.*  
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ORDER

*Per. Justice Anuradha Shukla*

Heard on admission. Appeal is **admitted**.

2. Respondent has been duly served with notice and order sheet dt.02.09.2023 reflects that despite service of notice and opportunity afforded, he has chosen not to appear before the Court. Under these circumstances, case is proceeded *ex parte*.

3. Under the impugned judgment and decree passed by the Principal Judge, Family Court, Shivpuri, M.P. on 08.03.2022 in Case No.51A/2020 HMA, a divorce petition filed by appellant under Section 13 (1) of Hindu Marriage Act 1955 was dismissed.

4. Facts admitted for decision of this appeal are that appellant was married to respondent in the year 2015 and parties do not have any child out of this wedlock.



5. Divorce petition was filed on the ground that behaviour of respondent was very cruel to appellant, who used to be physically violent with appellant after consuming liquor. His demand was for dowry and also to compel the appellant for illicit relations with others. He was also in the habit of chastising appellant on false allegations of character. Appellant was forced to leave the matrimonial house, almost three years prior to filing divorce petition and despite the efforts made for reconciliation respondent has refused cohabitation with appellant. A request has, therefore, been made that as marital ties between the parties have reached to such an end that parties can no longer live together decree of divorce should be granted.

6. Respondent denying these facts has claimed that their marriage life continued till 03.01.2020 and on that date appellant left along with her brother for her parental house. It is claimed that she has also taken away *Stridhan*, jewellery and other valuable articles. Prior to it, appellant had gone missing on 09.06.2019, regarding which a missing person report was lodged by respondent and later, on the basis of FIR lodged by appellant, a criminal case at Crime No.344/2019 was registered against three persons for committing offence of Sections 343, 376 and 506/34 of IPC. It is submitted that even after said incident, appellant continued to live with respondent and thereafter she left the house on 03.01.2020 on her own volition. Respondent still wants to restore the conjugal ties. Hence, a request has been made to dismiss the divorce petition.

7. The trial Court after framing issues and recording the evidence, dismissed the divorce petition, hence this appeal.



8. Counsel for appellant has been heard and the record has been gone through.

9. The divorce petition was filed on two grounds, namely; cruelty and desertion. According to appellant, she was being subjected to physical violence and mental cruelty by casting false aspersions against her character and also by demanding dowry. Admittedly, no FIR was ever made by appellant regarding the offence of demand of dowry and harassment. The entire divorce petition and also the statement of appellant are silent about the articles which were being demanded in dowry and what kind of cruelty she was being subjected to for not meeting dowry demand. The allegations are omnibus and have no corroborative strength whether it be ocular or documentary.. Similarly, allegation about physical violence, too, are very generalized giving no specific date, time or place of the incident and have no supporting evidence.

10. According to the appellant, she was being vehemently harassed by the respondent by casting false aspersions on her character. Admittedly, she had lodged an FIR against three persons at Crime No.344/2019 for the offence under Sections 344, 376, and 506/34 of IPC. The judgment passed in criminal trial registered as ST No.3752/2019 on 07.11.2023 by Seventh Additional Sessions Judge Shivpuri has been placed on record by learned counsel for the appellant. This judgment says that total four persons were prosecuted for the charges of Section 120-B (1), 366, 344, 376 (2) (n) and 506 Part II of IPC. The decision of Sessions Court reveals that all the persons facing trial were acquitted holding that one of the accused namely



established physical relations with the appellant, who was a consenting party. There is nothing on record to show that this finding of criminal court was challenged before any higher court.

11. The unchallenged facts established against appellant in that criminal case disclose the vanity of her allegations that she was subjected to cruelty by making false imputation of her character. In that judgment she herself has been found to be involved in voluntary sexual activity with a person, other than her spouse and that too after solemnization of her marriage and we are inclined to observe that if any conversation was held between her and respondent on this episode, she cannot claim a victim card. Admittedly the statements of appellant were not rebutted by respondent through his testimony but cross-examination of appellant itself reveals that she left her matrimonial house and on that occasion her brother was with her. No efforts were made by the appellant to produce as witness in the Court. Her affidavit marked as Ex.-D/1, which has been admitted by the appellant to have been duly sworn, suggests that she left her matrimonial house on her own volition and not under any compulsion or torture. Thus, issue of desertion is also not proved against respondent.

12. The trial Court has very meticulously considered the facts and evidence available on record and reached to the finding that none of the grounds of divorce was proved against respondent. Further, Section 23(1)(a) of Hindu Marriage Act 1955 bars a relief to a petitioner, who is in any way taking advantage of his or her own wrong or disability for the purpose of such relief. Here too, in the facts of the case, it is proved that appellant



herself was involved in adulterous act and had voluntarily left her matrimonial house. The other aspects of cruelty, as were claimed by appellant regarding dowry, harassment and physical violence, have not been proved either. Hence, the trial Court has committed no error in rejecting the divorce petition. Accordingly, this appeal is **dismissed**.

13. Let a decree be drawn accordingly.

14. Record of the trial Court be remitted along with copy of judgment and decree passed today.

(G. S. AHLUWALIA)  
JUDGE

(ANURADHA SHUKLA)  
JUDGE

SP