

2022 LiveLaw (Del) 227

IN THE HIGH COURT OF DELHI AT NEW DELHI

VIPIN SANGHI (ACJ); DINESH KUMAR SHARMA, J.

21st March, 2022

Family Law – Divorce - Accusations of unchastity or extra marital relationship is a grave assault on the character as well as health of the spouse against whom such allegations are made. While such allegations of extra marital affairs causes mental pain, agony suffering and tantamount to cruelty, the tendency of making false allegations must be deprecated by the Courts.

Summary: The Family Court had correctly appreciated the evidence and had rightly found that the appellant wife, by making unfounded allegations amounting to character assassination against the respondent husband and his father, had inflicted mental cruelty upon the the husband. The appellant wife had made serious allegations, however the same were not substantiated during the trial. It noted that the wife had also filed a serious complaint against the father of the husband, which also resulted in acquittal.

J U D G M E N T

DINESH KUMAR SHARMA, J.

1. The appellant has invoked the jurisdiction of this Court under Section 19 of the Family Courts, 1984 assailing the impugned judgment order dated 31.01.2019, whereby the Family Court, South West, Dwarka granted a decree of divorce in favour of the respondent/husband under Section 13 (1)(ia) of the Hindu Marriage Act, 1955 (hereinafter referred as HMA).

2. Briefly stated, the facts are that the parties were married as per Hindu rites and customs at Palam, Delhi on 29.06.2014. However, immediately after marriage, the relations between the couple turned sour. The appellant/wife lodged an FIR bearing No. 306/2016 under Section 354/354- A/354-B/354-C IPC, PS Palam Village against her father-in-law. The divorce petition was filed by the respondent/husband on the ground of the cruelty on 08.03.2017. The Family Court after the trial, granted decree of divorce.

3. The Family Courts in the impugned judgment, noted that after around one year of marriage, the parties shifted to a rented accommodation in Saidalazab, Saket, New Delhi. The appellant – wife was working as a Social Science Teacher with the Delhi Government and the respondent – husband was employed as Assistant Manager (Co-ordination) with M/s Bridge and Roof Co. (India) Ltd. The Respondent – husband in the petition had levied certain allegations against the appellant – wife regarding her lifestyle, attitude and strange behavior towards his parents. The appellant – wife allegedly did not pay any heed to the respondent's advise to modify her life style. The respondent/husband with a hope to see some improvement in their relation, shifted to an independent rented house. However, the behavior of appellant/wife allegedly, did

not improve. The appellant/wife allegedly made false allegations against the father of the respondent/ husband which, later on, she sought to withdraw and sought pardon as recorded in the written submissions made to Inquiry Officer (IO) on 25.06.2016. The appellant –wife filed false and frivolous complaints before the Delhi Commission for Women and CAW Cell on 03.06.2016 and 17.06.2016 respectively for dowry harassment against the respondent/ husband and members of his family. These complaints were closed after investigations. The appellant/wife also allegedly filed false FIR bearing No. 306/2016 under Section 354/354-A/354-B/354-C IPC, PS Palam Village. It has now been brought on the record that, in the said case, the Trial Court has recorded an acquittal. Appellant/wife, allegedly - in order to malign the members of the family of respondent/husband, got it published in the newspaper. Appellant/wife allegedly left the matrimonial house on 11.07.2016 alongwith the household goods, and filed a false and frivolous case under Section 9 of HMA in the Court of ADJ, Khetri Nagar, District Jhunjhunu, Rajasthan. Thereafter, the respondent/husband filed the present petition under Section 13 (1) (ia) of HMA on the ground of Cruelty.

4. The appellant/wife in her defense stated that, in fact, it was the respondent/husband who had been inflicting cruelty on her. She further stated that she was also tortured and harassed by her in-laws on account of their dowry demands. The appellant /wife also alleged that her father-in-law had also sexually assaulted her, and when the respondent/husband did not take any steps, she was forced to file a complaint with the police. The appellant /wife also stated that, rather, it was the respondent/husband who used to force her to commit suicide, for which, she had filed a complaint with the Mahila Ayog. Allegedly, the respondent /husband was a habitual drinker and even compelled the appellant to consume liquor on some occasions. The appellant stated that though she was employed and had to attend to her office, yet she used to do all household works. The appellant stated that she wanted to continue with the matrimonial alliance, and thus she filed the petition under Section 9 of the HMA. The Family Courts framed the following issues;

1. Whether the respondent has exercised cruelty upon the petitioner after solemnization of marriage between the parities? OPP.

2. Whether the petitioner is entitled to decree of divorce as prayed for? OPP.

3. Relief.

5. The respondent – husband examined himself as PW-1 and his father Sh. Charan Singh Yadva as PW- 2. The appellant had examined herself as RW-1.

6. The Family Court after considering the material on records and submissions made by the learned counsel for the parties, noted that though, appellant had alleged extra marital affairs of her husband but failed to place any document or material in support of her allegations. The Family Court inter alia observed that the allegations made by the appellant regarding extra marital affairs, were unfounded and had resulted in causing mental cruelty upon the respondent. The Family Court also noted that the

appellant had admitted that she had made the publication in newspaper – Dainik Jagran, regarding complaints of sexual harassment made by her against her father-in-law. The Trial Court noted that the parties were living separately for last more than 30 months. The Family Court inter alia concluded that the appellant had inflicted cruelty upon the respondent after solemnization of the marriage and granted decree of divorce.

7. It is pertinent to the mention that during pendency of this appeal, the respondent placed on record the judgment dated 04.06.2019 in case FIR no. 306/2016, PS Palam Village titled as State vs Charan Singh vide which Charan Singh Yadav i.e. the father of the respondent/husband was acquitted. The appellant /wife in the present appeal, has assailed the impugned order, pre-dominantly on the ground that the Family Courts has not correctly appreciated the evidence and has passed the order without any application of mind. The appellant/wife allegedly stated that, in fact, the respondent/husband had been inflicting cruelty and the present petition was filed by the respondent /husband only as a counter blast of the complaints filed by her against her father-in-law. The appellant/wife stated that, even if, we assume that marriage has irretrievably broken down, it is only because of cruelty committed by the respondent/husband. The appellant/wife stated that the allegations of extra marital affairs were not whimsical or imaginative, and were made with a reasonable cause.

8. Mr.Rajeev Pratap Singh, learned counsel for the appellant submitted that the Trial court/ Family Courts has wrongly passed the judgment and this appeal may be accepted. However, he sought permission to file written submissions. In the interest of justice, this opportunity was given to him. However, the learned counsel has merely filed the list of dates.

9. Ms. Begum, learned counsel for the respondent submits that the Family Court Judge has correctly appreciated the evidence and has passed a reasoned judgment on the basis of material on record and therefore, there is no reason and ground to upset or set aside the judgment of the Trial Court.

10. We have considered the submissions of the parties and perused the record carefully. The parties in the present case were married in June, 2014 and have been residing separately since June, 2016. The appellant/wife lodged the police complaint against her father-in-law FIR bearing No. 306/2016 under Section 354/354-A/354-B/354-C IPC, PS Palam Village. In March, 2017, the respondent/husband filed the divorce petition. Thus, the parties are in litigation since 2016, and are residing separately for the last around 6 years. The Family Court Judge in his detailed and reasoned judgment has correctly appreciated the evidence on the record and has found that the allegations of extra marital affairs made by the appellant/wife against the respondent /husband were unfounded. In the evidence before the Trial Court, the appellant failed to bring any credible evidence to prove her allegations. It is also a matter of record now, that the police case filed by the appellant against her father-in-law i.e. the father of the respondent has also resulted in acquittal.

11. We consider that the Family Court has correctly appreciated the evidence and has

rightly found that the appellant - by making unfounded allegations amounting to character assassination against the respondent and his father has inflicted mental cruelty upon the respondent /husband. In the appeal, also, the appellant has failed to bring any credible material to suggest that the findings recorded by the Trial Court are incorrect. It has repeatedly been held that accusations of unchastity or extra marital relationship is a grave assault on character, status, reputation as well as health of the spouse against whom such allegations were made. It causes mental pain, agony suffering and tantamount to cruelty. The allegations of extra marital affairs in relationship are serious allegations, which have to be made with all seriousness. The tendency of making false allegations has to be deprecated by the Courts. The malintent of the appellant is also evident from her admission of publicising her allegations against her father-in-law. His reputation would have been tarnished by such irresponsible conduct of the appellant.

12. We consider that there is no material on the record to upset or set aside the order of the Family Courts.

13. In the present case the appellant has made serious allegations, but the same were not substantiated during the trial. The appellant also filed a serious complaint against the father of the husband, which also resulted in acquittal. We consider that these two aspects simply can be taken as acts of cruelty by the appellant, upon the respondent. The marriage is solemn relation and it's purity must be maintained for a healthy society. Thus, we see no reason to interfere with the impugned judgment and decree. Dismissed.

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