



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**FAO (FC) No. 2 of 2019
Reserved on: 05.12.2023
Date of Decision: 18.12.2023**

.....Appellant

Versus

.....Respondent

Coram

**Hon'ble Mr. Justice Vivek Singh Thakur, Judge.
Hon'ble Mr. Justice Sandeep Sharma, Judge.**

Whether approved for reporting? Yes.

For the Appellant: Mr. Ajay Kochhar, Senior Advocate with Mr. Vivek Sharma and Mr. Anubhav Chopra, Advocates.

For the Respondent: Mr. G.C. Gupta, Senior Advocate with Ms. Meera Devi, Advocate.

Sandeep Sharma, J.

Being aggrieved and dissatisfied with judgment dated 14.8.2019, passed by the learned District Judge, (Family Court) Shimla, District Shimla in HMA Petition No. 5-S/3 of 2019/14, whereby petition filed under Section 13 (1) (i-a) of the Hindu Marriage Act (herein after referred to as "*the Act*"), praying therein for decree of divorce by way of dissolution of marriage on the ground of cruelty having been filed by the respondent-husband came to be allowed, appellant-wife has approached

this Court in the instant appeal filed under Section 19 of the Family Courts Act read with Section 28 of the Act, praying therein to set-aside the aforesaid judgment.

2. For having bird's eye view, facts which may be relevant for adjudication of the case at hand are that marriage inter-se parties to the lis was solemnized on 10.5.2005 at village Ani, as per Hindu Rites and ceremonies and out of their wedlock, one daughter named was born on 8.3.2006. Though initially, parties to the lis lived together cordially, but subsequently, on account of certain differences, marital relations inter-se them became sour. Father of the respondent-husband was compelled to reside at Chandigarh on account of his employment in a private company and his sister is already married and as such, appellant-wife had to reside in the house of the respondent-husband at Village Ani with her husband i.e. respondent as well as her mother-in-law. Relationship inter-se appellant-wife and mother of the respondent-husband were not very cordial, as a result thereof, relations inter-se appellant-wife and respondent-husband also became strained. Though respondent-husband tried to pacify the appellant-wife, but allegedly she threatened to implicate him as well as mother in law in a false criminal case. Just after seven months of the birth of the daughter of the parties, appellant-wife joined a job as History Lecturer in Village Sarahar, Tehsil Nirmand, District

Kullu, Himachal Pradesh, as a result of which, she started residing at Nirmand that too leaving behind her tender age daughter with mother in law at Ani. Respondent-husband resided at Village Ani till February 2009 and thereafter, was transferred to Theog, District Shimla. Daughter of the parties was being looked after by mother in law of the appellant-wife from day one, but yet she never appreciated her mother in law, rather humiliated and insulted her repeatedly. Respondent-husband as well as his mother remained under mental tension and stress on account of allegations/threats leveled/extended by the appellant-wife that she would implicate them in a false criminal case. At one point of time, appellant-wife threatened the respondent-husband as well as his mother (her mother in law) to consume poison and as such, mother in law of the appellant-wife lodged FIR at a concerned Police Station. Besides above, appellant-wife also started claiming/leveling allegations that respondent-husband is having illicit relations with one ***** Raj, who is known to respondent-husband since his childhood, as a result thereof, respondent-husband suffered great harassment, mental stress and agony. Allegedly, the appellant-wife, her parents and brother repeatedly made telephonic calls on the mobile of the respondent-husband during office hours and late night hours to abuse and threaten him. On 24.6.2014, appellant-wife came to the office of the respondent-husband and started abusing in front of other

staff and alleged that he is a womanizer and has caused harassment, mental stress and agony to her. On account of the aforesaid allegations, parties to the lis filed cross cases against each other. Respondent-husband admitted his daughter in Roots Public School Bagi and her entire expenses were being borne by him, but interestingly, one day, appellant-wife visited the hostel of their daughter without informing the respondent-husband and took the daughter to village Sarahar. Since appellant-wife repeatedly compelled the respondent-husband to reside either separately or with family member, he started residing in the house of the brother of the appellant-wife in Shimla. Since marriage inter-se parties failed irreparably and there were no chance of rapprochement, respondent-husband filed petition under Section 13 (1) (i-a) of the Act in the competent court of law, praying therein for passing decree of divorce by way of dissolution of marriage.

3. After having received notice in the aforesaid petition, appellant-wife filed detailed reply and refuted all the allegations leveled by the respondent-husband. Appellant-wife alleged that from day one, she has been constantly harassed by her husband and mother-in-law, but she alleged that after seven months of the birth of her daughter, she joined as PTA Teacher at Sr. Secondary School Sarahar, which is just 50 kms away from the house of the respondent-husband and it was a joint decision of

the parties in consultation with her mother in law, but yet she was repeatedly compelled by the respondent-husband and his mother to leave the job. Though appellant-wife admitted that her minor daughter was left in the care and custody of the mother of the respondent-husband, but she alleged that her daughter was not taken care properly because household chores and entire work of the daughter was being done by her. She also denied that on 12.7.2014, she forcibly took the daughter from the hostel without any consent of the respondent-husband, rather school was closed for summer break and she after doing all the formalities took the daughter with her and thereafter, after completion of summer vacation again dropped her in the hostel. She alleged that during summer vacation, she along with her daughter came to Theog, where she was allegedly manhandled by the respondent-husband and as such, was compelled to lodge a complaint at concerned Police Station on 23.7.2014, whereafter matter was compromised between the parties on 24.7.2014.

4. Appellant-wife alleged that at no point of time, she compelled the respondent-husband to live separately, rather respondent-husband after two-three years of the marriage started misbehaving and demanding dowry. She alleged that respondent -husband used to tell that she should ask her father to gift an orchard to him. She alleged that brother of the respondent-husband is having a flat at Sanjauli and keys thereof were

handed over to the respondent-husband, but during his stay in the aforesaid premises, he had illicit relationship with one lady called *****.

She alleged that above named ***** constantly pressurized the respondent-husband to give divorce to her.

5. On the basis of pleadings of the parties, court below framed following issues:

- “1. Whether the petitioner has been treated with cruelty by the respondent as alleged?..OPP.
2. Whether the present petition is not maintainable?...OPR.
3. Whether the petitioner is stopped from filing the present petition on account of his own act and conduct?OPR.
4. Whether the present petition has not been filed as per the rules framed by the Hon'ble High Court, if so its effect?... OPR.
5. Whether the petitioner has not approached to the court with clean hands?... OPR.
6. Relief.”

6. To substantiate aforesaid allegations and counter allegations, parties to the lis led oral as well as documentary evidence. Respondent-husband examined as many as nine witnesses, whereas appellant-wife examined five witnesses. On the basis of oral as well as documentary evidence led on record, learned District Judge (Family Court), Shimla, allowed the divorce petition. While concluding that appellant-wife has treated the respondent-husband with cruelty, learned court below vide impugned judgment ordered dissolution of marriage inter-se appellant-wife

and respondent-husband. In the aforesaid background appellant-wife has approached this Court in the instant appeal, praying therein to set-aside the aforesaid order.

7. We have heard the learned counsel for the parties and gone through the records of the case.

8. Precisely, the grouse of the appellant-wife, as has been highlighted in the grounds of appeal and further canvassed by Mr. Ajay Kochhar, learned Senior counsel, appearing for the appellant-wife is that court below has erred in deciding issue No.4 against the appellant on legally unsustainable grounds. He submitted that court below miserably failed to take note of the fact that petition filed by the respondent-husband was not in accordance with the Hindu Marriage & Divorce (Himachal Pradesh) Rules 1982 framed by the High Court of Himachal Pradesh under Sections 14 and 21 of the Act. He submitted that in terms of the aforesaid rules, no evidence was required to be led on this issue by the appellant-wife and only thing required for adjudication of the aforesaid issue was to scrutinize the petition vis-à-vis the Rules supra and it could have been easily ascertained as to whether petition was in accordance with the said Rules or not and if not, divorce petition having been filed by the respondent-husband ought to have been dismissed. Mr. Kochhar further argued that court below has erred in granting decree of divorce on the basis

of mere vague allegation of cruelty. He submitted that bare perusal of the divorce petition nowhere indicates the specific instances of alleged cruelty. He submitted that none of the allegations leveled by the respondent-husband ever came to be proved in accordance with law and as such, court below has erred in ordering dissolution of marriage by passing decree, as prayed for. Mr. Kochhar further submitted that learned Family Court has erred in passing decree of divorce in favour of the respondent-husband on the ground that appellant-wife failed to substantiate the allegations of adultery against the respondent husband. He submitted that though there is overwhelming evidence adduced on record to prove the adultery committed by the respondent-husband, but even otherwise, learned Family Court failed to appreciate that non-substantiation of allegations does not always prove the falsity of the allegations. He submitted that there could not have been any direct evidence of adulterous life of the respondent-husband, rather such fact assumes significance as the respondent husband had admitted to have acquaintance with a lady namely ***** and onus was upon him to prove his relationship with the said lady. Lastly, Mr. Kochhar argued that court below failed to appreciate the evidence in its right perspective, as a result thereof, finding to the detriment of the appellant-wife and against law have come to the fore.

9. While supporting the impugned judgment passed by the learned Family court, Mr. G.C. Gupta, Senior Advocate, vehemently argued that there is overwhelming evidence adduced on record by the respondent-husband that he was subjected to constant cruelty and as such, no illegality can be said to have been committed by the court while accepting the prayer made by the respondent-husband for dissolution of marriage. Mr. Gupta, strenuously argued that from very beginning, appellant-wife not only misbehaved and ill treated the respondent-husband and his mother, but she also leveled serious allegations of adultery against the respondent-husband. He submitted that allegation of adulterous being scandalous alone is sufficient to constitute cruelty. He submitted that appellant-wife, just after seven months of birth of her daughter, left her behind and joined at a station 50 km away from the native place, as a result thereof, minor daughter of the parties to the lis was looked after by the respondent-husband and his mother. He further submitted that evidence, be it documentary or oral, led on record is totally contradictory to the stand taken in the written statement and as such, rightly not taken into consideration by the court below while ascertaining the correctness and genuineness of the allegations of cruelty leveled by the respondent-husband in a petition filed for dissolution of marriage.

10. Having heard learned counsel for the parties and perused material available on record vis-à-vis reasoning assigned in the impugned judgment, this court is not persuaded to agree with the contention of Mr. Ajay Kochhar, learned Senior Advocate, appearing for the appellant-wife that court below has failed to appreciate the evidence in its right perspective, rather court below has dealt with each and every aspect of the matter meticulously and there is no scope of interference.

11. It is not in dispute that relations between appellant-wife and respondent-husband were cordial for two years from the date of marriage and during this period, they were also blessed with a daughter. Relation inter-se parties became sour on account of joining of job by the appellant wife at a station, which was 50 km away from the native place. Since mother of the respondent-husband was alone and there was none to take of her, respondent-husband alongwith his wife started living at village Ani, but after joining the job, respondent-husband and his mother were compelled to take care of the minor daughter, who was just seven months old at that time. Since respondent-husband advised the appellant wife to leave the job, relations inter-se parties became sour. As per evidence collected on record by the respondent-husband, appellant wife was not respectful and courteous to the mother of the respondent husband from day one and on few occasions, prior to filing of the divorce petition,

complainants and cross complaints were lodged at different police stations by the parties to the lis.

12. Respondent-husband examined himself as PW8 and tendered his affidavit Ex.PW8/A in the evidence, which is replica of his pleadings in the petition. Cross-examination conducted upon this witness if perused in its entirety, nowhere suggests that opposite party was able to extract something contrary to what this witness stated in his examination in chief. In his cross-examination, he specifically denied that last installment of the school fee of the daughter was not deposited, as a result thereof, she could not appear in the examination. He admitted that on 23.7.2014, appellant wife alongwith daughter had come to him at Theog, but specifically denied the allegation of manhandling of appellant-wife by him. He also admitted that prior to March/April, 2014, he lived in the flat of his brother in law at Sanjauli as per wish of the appellant-wife as she wanted to keep vigil upon him through her maternal uncle and aunt, who used to reside at the adjoining flat at Sanjauli. He also admitted that Sh. Deepak Verma was residing on lower floor of the said building. He specifically denied the allegation of his having given beatings to the appellant-wife on 23.7.2014. He admitted that on the complaint Ext.DX, matter was compromised. He also denied that during his posting at Theog, he developed extra-marital relationship with one ***** , but volunteered that she is known to his family

and presently, neither he is in talking terms with her nor knows as to where she is residing. He specifically denied that ***** used to meet him at Sanjauli.

13. PW9 Smt. Daya Thakur, mother of the respondent-husband tendered her affidavit Ex.PW9/A in evidence and supported the case of the respondent-husband. In her cross-examination, she specifically denied to have consented for the service of the appellant-wife. She specifically denied that respondent-husband is having extra marital relations with one lady called ***** and in order to marry her, wanted to get rid of the appellant-wife. She also denied to have made dowry demand by compelling father of the appellant-wife to transfer one orchard in the name of the respondent-husband

14. PW3 Mr. Rahul Chauhan, who was working as clerk in BDO Office of Theog, deposed that on 23.7.2014, appellant-wife came to BDO Office and complained regarding character of the respondent-husband and alleged that he is having extra marital relations. He deposed that on account of aforesaid allegations, respondent-husband remained disturbed and did not attend the office for 2-3 days. He also admitted in his cross-examination that after the incident, respondent-husband was summoned to the Police Station.

15. PW5 Sh. Naresh Kumar, SDM Theog, also testified that complaint was forwarded to the SHO, PS Theog. PW6 HHC Laxman Dass, Police Station Ani proved the DDR dated 15.4.2014 Ex.PW6/A.

16. PW1 Mr. Devid Fendall, School Incharge SDA Mission School, Ani and PW4 Shri Anil Kumar, Karate Instructor, Roots Public School, testified the factum with regard to admission of daughter Ms. Swastika Thakur in the School on 11.3.2010 as well as her withdrawal by the appellant-wife on 11.3.2015.

17. PW7 Mr. Devinder Verma, Lecturer Economics, Govt. Sr. Sec. School Sarahar, District Kullu, proved the appointment letter Ext.PW7/A and joining report Ex.PW7/B of the appellant-wife.

18. If the entire evidence led on record by the respondent- husband is perused juxtaposing allegations leveled in the divorce petition, this court finds that respondent-husband successfully proved on record that on account of frivolous allegations of adultery leveled against him, great harassment, mental stress and agony was caused to him. He also proved on record that he was humiliated on account of aforesaid bald allegation in the presence of the officials in his office. He also successfully proved on record that just after seven months of the birth of the child, appellant-wife took up a job against the wishes of the family and started living at the distance of 50 km away from the native place that too leaving behind her

minor daughter in the care and custody of the respondent-husband and his mother.

19. Appellant-wife while appearing as RW1 specifically denied the allegation of cruelty vide affidavit Ext.RW1/A. She attempted to carve out a case that she was forced to leave the matrimonial house. She produced on record copies of FIR Ex.RW1/B, complaint Ext.RW1/C, report under Section 173 Cr.PC Ex.RW1/D, application under Section 12 of the Protection of Women from Domestic Violence Act Ex.RW1/E and FIR Ext.RW1/F. In her cross-examination, she admitted that at the time of the marriage, there was no condition with regard to dowry. She also admitted that at Ani, mother of the respondent-husband also resided with them. She also admitted that she joined PGT at Sarahar, when her daughter was eight months old. She also denied that while she was doing job at Sarahar, her daughter was looked after by her mother in law, however she admitted that her daughter had studied from KG to 3rd class at SDA Missionary School Ani. She admitted that in the year, 2009, her husband was posted at Theog and while she was posted at Sarahar, their daughter was looked after by her grandmother. She denied to have joined the service against the wishes of the respondent-husband and his mother. She admitted that distance between Sarahar and Rampur is 60 kms and daughter is residing with her brother at Rampur. She specifically denied that whenever she

visited Ani, she quarreled with her mother in law and on 15.4.2014, attempted to consume poison and matter was reported to the police. She feigned ignorance as to who is *****, however volunteered that she had received her telephonic calls. She alleged that ***** is from Ani and she made no efforts to meet her. She admitted that ***** had made number of calls on her mobile phone, however, she made no complaint to police. She denied that she had leveled allegations against the respondent husband for having extra marital relations without any basis. She denied that on 23.7.2014, she had gone to the office of the respondent-husband at Theog and leveled allegation that he is having illicit relations with a woman and as a result thereof, respondent-husband was forced to take leave.

20. RW3 Sh. Joginder Singh, father of the appellant wife tendered his evidence by way of affidavit Ex.RW3/A. In his cross-examination though he admitted that he is having an orchard at Ani, but nowhere stated that dowry, if any, was ever demanded by respondent-husband and his mother. He deposed that on 23.7.2014, he was present at Theog during morning hours and respondent husband was already there. He admitted that on 23.7.2014, respondent-husband was present in the office and they had gone to his office at about 12:00 in the noon. He also testified that her daughter had made a complaint to the police. This witness feigned ignorance to the effect that ***** had been married and has been residing

with her husband. He specifically admitted that prior to 2014, no complaint against the respondent and his family member was made to any authority.

21. RW4 Mr. Avinash Verma and RW5 Mr. Ramesh Negi also supported the case of the appellant-wife. During cross-examination, RW4 admitted that prior to her admission in Roots country School Baghi, Swastika Thakur was residing with her grandmother at Ani. He also admitted that while appellant wife was posted at Sarahar, her daughter was being looked after by her grandmother at Ani. He deposed that on 23.7.2014, he came to Theog after finishing the Court work at 4:00 pm and had received a telephonic call of the appellant wife on the same date at 3:00 PM. He deposed that his father had not come with him on that day and he was at his residence. He deposed that respondent-husband was called to the Police Station on 23.7.2014 at about 8:00 pm, but when he had reached the Police Station, he was told that complaint has already been filed by the respondent-husband. He denied that on coming to know that respondent-husband had filed divorce petition, false complaints were lodged against him. RW5 during cross-examination fairly admitted that nothing has been disclosed to him about extra marital relations of the respondent-husband.

22. If the aforesaid evidence led on record by the respondent-husband, if read in its entirety juxtaposing statements of all the witnesses adduced on record by the respondent-husband, it can be safely inferred that relations inter-se appellant wife and respondent husband as well as mother were cordial for more than 2-3 years of the marriage, but subsequently it became bitter on account of joining of the service by the appellant-wife that too at a distance of 60 kms from the house. It also emerges from the evidence of the appellant wife that on account of her having joined at Sarahar, minor daughter namely Swastika Thakur was being looked after by mother of the respondent-husband. It also emerges from the statement of appellant-wife that she had leveled allegation of adultery against her husband i.e. respondent-husband, as a result of which, relationship inter-se them became strained. Though allegation came to be leveled by the appellant-wife that dowry was demanded by the respondent-husband, but such allegation, if any, never came to be proved in accordance with law because all the witnesses adduced on record by the appellant wife including herself categorically stated that at the time of the marriage, no demand of dowry was made and relation inter-se them remained cordial for 2-3 years. Though this court is persuaded to agree with learned counsel for the appellant wife that appellant wife being educated lady is entitled to do job and qua such fact, no objection could

have ever been raised by the family members including respondent-husband, but *whether government job could have been taken by the appellant at the distance of 50-60kms from the native place that too leaving her seven months daughter, is a debatable question.*

23. Admittedly, as per evidence available on record, minor daughter namely Swastika Thakur was left in the care and custody of mother of the respondent-husband. There may not be direct evidence available on record suggestive of the fact that appellant-wife maltreated, misbehaved or abused her mother in law, but her conduct, which is evident from the written statement as well as statement given in the court, certainly indicates towards strained relationship inter-se her and her mother in law. Leaving everything aside, it is not in dispute that allegation of adultery against the respondent-husband specifically came to be pleaded in the written statement filed by the appellant wife. No doubt, respondent-husband in his divorce petition alleged that on account of allegation of adultery leveled against him, great humiliation and mental stress has been caused to him and as such, onus was upon him to prove such fact but since appellant-wife nowhere disputed the aforesaid pleadings made in the divorce petition, rather she reiterated her allegations of adultery against the husband, onus had actually shifted upon her to prove such allegation. Interestingly, in the case at hand, appellant-wife though alleged that her

husband had illicit relationship with one lady namely *****, but such allegation never came to be proved in accordance with law. Though appellant-wife claimed to have acquaintance with *****, but she failed to prove that she had ever met her at any point of time. In her cross-examination, she feigned ignorance with regard to identity of above named *****. Though appellant-wife deposed that above named ***** repeatedly called her on telephone, but neither she placed on record any data with regard to same nor lodged complaint, if any, against ***** in the competent court of law or at Police Station. Interestingly, appellant-wife alleged that act of visiting house of the respondent-husband at Sanjauli by ***** was witnessed by persons namely Deepak and Shalini but neither Deepak nor Shalini were examined. There is absolutely no iota of evidence to prove aforesaid allegation of adultery leveled by the appellant-wife.

24. To the contrary, there is overwhelming evidence that on 23.7.2014, appellant wife visited office of the respondent-husband at Theog and leveled allegation of adultery in presence of other officials, as a result of which, respondent-husband not only suffered humiliation, but also mental trauma. Similarly, allegation of manhandling, if any, by the respondent-husband on 23.7.2014 at Theog, never came to be proved. Copy of Ex.DX clearly reveals that even in that complaint, appellant-wife nowhere alleged that she was manhandled by respondent-husband, rather in that

complaint, she leveled allegation with regard to adulterous life of her husband with *****. Pursuant to aforesaid complaint, parties were summoned by the police and matter was compromised and complaint Ex.DX was withdrawn by the appellant-wife

25. PW3 Rahul Chauhan, an official of BDO Office Theog, has clearly stated that appellant-wife complained to BDO that respondent is having extra marital relationship. In the instant case, respondent-husband has come up with a plea of cruelty that appellant-wife leveled false allegation regarding his extra marital relationship with ***** and as such, false allegation caused mental cruelty to him. He successfully discharged initial onus to substantiate aforesaid plea of him, whereas appellant-wife miserably failed to prove allegation, if any, of extra marital relationship of her husband with person namely *****. Since appellant-wife herself withdrew the complaint Ex.Dx, wherein she had leveled allegation regarding adulterous life of her husband, her plea that respondent is having extra marital relationship with ***** , is proved to be false.

26. Needless to say, matrimonial matters are matters of delicate human and emotional relationship and to maintain such relationship for a long, there is requirement of mutual trust, regard, respect, love and affection. Since in the case at hand, appellant-wife made serious and scandalous allegations regarding adulterous life of her husband, learned

court below rightly arrived at a conclusion that false allegation of adultery constitutes mental cruelty. Leveling disgusting accusations of indecent familiarity with a person outside wedlock and allegations of extra marital relationship constitute grave assault on the character, honour, reputation, status of the spouse. Definitely such aspersions amount to worst form of insult and cruelty, which itself is sufficient to substantiate cruelty in law, warranting the claim of the respondent-husband being allowed. Reliance in this regard is placed upon judgment passed by the Hon'ble Apex Court in **Vijay Kumar Ramchandra Bhate v. Neela Vijay Kumar Bhate (2003) 6 SCC 334**, which has been otherwise taken note of by the learned Family court below while passing the impugned judgment.

27. Though word "cruelty" has not been defined in the Hindu Marriage Act, but it has been used in Section 13(1)(i-a) of the Act in the context of human conduct or behaviour in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one which is adversely affecting the other. Cruelty can be mental, physical, intentional or unintentional. If it is physical, it is a question of fact and degree, but if it is mental, the inquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. Whether it caused reasonable apprehension that it would be harmful or injurious to live with the other, ultimately, is a matter of inference to be

drawn by taking into account the nature of the conduct and its effect on the complaining spouse. There may be cases where the conduct complained of itself is bad enough and *per se* unlawful or illegal. Then the impact or the injurious effect on the other spouse needs not be enquired into or considered. In such like cases, the cruelty will be established if the conduct itself is proved or admitted. The absence of intention should not make any difference in the case, if any ordinary sense in human affairs, the act complained could otherwise be regarded as cruelty. Intention is not a necessary element in cruelty. The relief to the party cannot be denied on the ground that there has been no deliberate or willful ill-treatment. Reliance in this regard is placed upon **Manish Tyagi versus Deepak (2010) 4 SCC 105** and **Ravi Kumar versus Julmi Devi 2010 (4) SCC 476**.

28. Repeatedly, it has been held by the Hon'ble Apex Court that the cruelty is evident where one spouse has so treated the other and manifested such feelings towards her or him as to cause in her or his mind reasonable apprehension that it will be harmful or injurious to live with the other spouse. Cruelty must not only be physical or mental, but it must be something more serious than ordinary wear and tear of married life and the conduct taking into consideration the circumstances and background. In the case at hand appellant-wife has leveled serious allegation regarding adulterous life of the respondent-husband with person namely *****, but

such allegation never came to be proved in accordance with law. Interestingly, in the case at hand, appellant-wife deposed that her husband and ***** forced her many times to dissolve the marriage as they wanted marry each other, but, neither she knows ***** nor ever met her. She neither disclosed her identity nor brought on record the call details to prove the genuineness of the contentions. Immediately after filing of divorce petition by the respondent-husband, appellant-wife lodged FIR under Section 498A, 506 and 34 IPC against the respondent-husband and his mother, leveling therein allegation of dowry demand, physical and mental torture, criminal intimidation and extra marital relation of the respondent-husband with *****. Apart from above, number of other cases also came to be lodged against the respondent husband and his mother, which fact itself suggests that from the very beginning, the appellant wife was not interested to live with her husband and her mother in law. Respondent-husband deposed that from very beginning, the appellant-wife was not interested to live with her mother in law at Ani, and always forced him to take separate accommodation. Interestingly, no suggestion to the contrary, ever came to be put forth in the cross-examination of the respondent-husband. As per evidence, mother of the respondent-husband was compelled to lodge report Ex.PW6/A on 15.4.2014 with Police Station Ani, regarding behaviour of the appellant-wife when she threatened to commit suicide and to indulge the

respondent-husband and his mother in a false case, no suggestion in cross examination ever came to be put to the respondent-husband to refute aforesaid allegation of adulterous life.

2. Having scanned the entire evidence led on record vis-à-vis reasoning assigned in the impugned judgment passed by the learned Family court below, we find no scope to interfere with the Decree of Divorce granted by the learned Family Court in favour of the respondent-husband, which, otherwise, appear to be based upon proper appreciation of evidence available on record and as such, same is upheld.

29. Consequently, in view of the detailed discussion made herein above as well as law taken into consideration, present appeal fails and dismissed accordingly, alongwith pending applications, if any.

**(Vivek Singh Thakur),
Judge**

December 18, 2023
(manjit)

**(Sandeep Sharma),
Judge**