

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.504 of 2023

CNR No. BRHC010718912023

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Khushboo Kumari @ Khushboo Devi, Wife of Abhishek Verma @ Chunnu Jee, Daughter of Ashok Saumeyari, Resident of Mohalla- Awarpul, Police Station- Town Ara, District- Bhojpur.

... .. Appellant/s

Versus

Abhishek Verma @ Chunnu Jee, Son of Gopal Jee Gupta, Resident of Mohalla- Bichali Road, Tari, Police Station- Town Ara, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Dhananjay Mishra, Advocate Mr. Nilesh Kumar Nirala, Advocate
For the Respondent/s	:	Mr. Binod Kumar Singh, Advocate Ms. Vagisha Pragya Vacaknavi

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date: 06-10-2026

1. The instant matrimonial appeal is directed against the judgement, dated 7th of June, 2022, passed in Matrimonial Case No. 45 of 2013 by the learned Principal Judge, Family Court, Bhojpur at Arrah and decree, dated 22nd of June, 2022,



whereby and whereunder, the suit for dissolution of marriage was decreed and divorce was granted against wife-Khushboo Kumari.

2. Wife is the appellant in the instant appeal.

3. It is pertinent to mention that the respondent previously filed Divorce Suit No. 208 of 2008 against his wife on the ground of desertion and cruelty in the same Court of Law. The said suit was dismissed on contest, vide judgement, dated 14th of July, 2010. Against the said judgement and decree of dismissal, the husband / appellant filed Miscellaneous Appeal No. 658 of 2010, which was dismissed by this Court, vide judgement, dated 18th of November, 2011. Thereafter, the husband / plaintiff filed a suit for judicial separation being Case No. 257 of 2015. The said suit was dismissed for default. Again, the husband / respondent filed Matrimonial Case No. 45 of 2013. The suit was dismissed initially by the learned Family Judge, vide order, dated 11th of June, 2015. The husband preferred an appeal before this Court bearing Miscellaneous Appeal No. 256 of 2015. The said appeal was allowed on 17th of January, 2017. The case was remanded back to the Court of the learned Principal Judge, Bhojpur at Arrah, directing him to decide the case on the basis of the evidence adduced by both the



parties.

4. The facts involved in the instant appeal are as follows: -

(i) Marriage of Abhishek Verma, respondent herein, was solemnized with the appellant, namely, Khushboo Kumari on 3rd of December, 2007 as per the Hindu rights and customs. After marriage, she came to her matrimonial home on 5th of December, 2007. Wedding reception was held in the house of the respondent but from the very beginning of marriage, the wife of the respondent started behaving with her husband in a very rude and abusive manner. She also used to abuse the mother-in-law, both mentally and physically. She was not ready to lead conjugal life with the respondent. She is self centered and selfish lady, who wanted to live alone separately. The mother of the appellant used to provoke her to be separated from her husband but the respondent, herein, was not willing to sever the relationship of husband and wife. Further case of the respondent husband is that his father gifted with jewellery to his wife and she grabbed all the ornaments and handed them over to her parents. Father of the appellant also demanded money amounting to Rs. 3,00,000/- from the plaintiff to purchase land and when the respondent refused to do so, he was threatened.



His fie also threatened her saying that she would consume kerosene oil or poison to end her life to implicate her husband and other matrimonial relations in dowry death case. On 28th of March, 2008, the wife of the respondent actually consumed kerosene oil, but due to timely intervention of the doctors, she was saved. On 29th of March, 2008, she left her matrimonial home without saying anything to her husband or other matrimonial relations. The respondent tried to bring her back on 6th of November, 2008, but she and her parents did not agree to send her to her matrimonial home. They were not also ready to settle the matrimonial dispute between the parties.

(ii) The defendant / appellant contested the suit by filing written statement. In her written statement, she denied all allegations made out against her by her husband in the plaint.

(iii) It is contended by the appellant that she was abused by her husband and parents in law. It is also denied by the appellant that her husband has no source of income. It is contended by her that he has jewellery shop under the name and style of Abhishek Jewellers at Shish Mahal Chowk and he earns Rs. 1,000/- per day from his business. The husband of the appellant had greedy eyes over the property of her parental home. The appellant also denied that her father demanded a sum



of Rs. 3,00,000/- from her husband. It is stated by the appellant that her father is a Cashier in Life Insurance Corporation of India. He is a man of substance. She also stated that she never threatened her husband or matrimonial relations saying that she would commit suicide or that she consume kerosene oil on 28th of March, 2008. Doctor saved her. It is also stated by the appellant that her husband and parents in law ousted her from her matrimonial home on 13th of December, 2008 after retaining all her stridhan properties. The respondent / husband never made any attempt for reconciliation. On the other hand, he demanded huge amount of dowry even after her marriage.

(iv) On the basis of the pleadings of the parties, the Trial Court framed as many as four issues, which are as hereunder: -

(a) Whether the case filed by the applicant is maintainable;

(b) Whether the applicant had any cause of action to file the case;

(c) Whether the applicant is entitled to get a decree of divorce against the respondent; and

(d) Whether the applicant is entitled to any other or further reliefs.



(v) In order to prove their respective cases, the applicant / respondent examined, in all, five witnesses. Amongst them, P.W. 1, Kamlesh Kumar; P.W. 2, Chandan Kumar Verma; and P.W. 3, Sarita Kumari claimed that they knew the parties and their matrimonial relationship. P.W. 4, Shyam Babu Sah is another local witness and P.W. 5, Abhishek Verma is the applicant himself.

(vi) The respondent examined six witnesses in support of her case. D.W. 1, Bidya Shanker Pandey knows the respondent. D.W. 2, Ashok Somyari is the father of the respondent. D.W. 3, Saryu Pandey is a neighbour of the defendant. D.W. 4 and D.W. 5 are the elder brother and mother of the defendant, while defendant was examined as D.W. 6. Series of documents were exhibited from both sides.

5. On careful perusal of the pleadings of the parties and the evidence on record, it is found that marriage of the parties were solemnized on 3rd of December, 2007. As per the case of the husband / respondent, the wife completely deserted her on and from 13th of December, 2008. The matrimonial case was instituted by the husband against his wife in the year 2013 and it was registered as Matrimonial Case No. 45 of 2013. It is not disputed by the appellant that the wife / appellant deserted



her husband and they are living separately for about 18 years. This long separation and denial of conjugal relationship by the wife amounts to cruelty on the part of the wife against her husband. Moreover, the facts of the case amply proves that the appellant was in complete desertion from her husband for more than two years immediately preceding the presentation of plaint. Therefore, the Trial Court rightly passed the decree of dissolution of marriage by divorce and we do not find any reason to interfere with the judgement passed by the Trial Court.

6. Accordingly, the instant appeal is dismissed.

7. The judgement and decree, dated 7th of June, 2022 and 22nd of June, 2022, respectively, passed by the Trial Court in Matrimonial Case No. 45 of 2013, in favour of the respondent / husband for dissolution of marriage, is, hereby, affirmed.

8. On perusal of the lower court records, we find that the wife did not file any application for permanent alimony before the learned Principal Judge, Family Court, Bhojpur at Arrah under Section 25 of the Hindu Marriage Act.

9. The appellant is at liberty to file appropriate application under Section 25 of the Hindu Marriage Act, claiming permanent alimony and if such application is filed, the learned Trial Judge shall dispose of the application in



accordance with law expeditiously and preferably within a period of four months from the date of filing of the application.

(Bibek Chaudhuri, J)

Rana Vikram Singh, J: I agree.

(Rana Vikram Singh, J)

skm/-

AFR/NAFR	NAFR
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