

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

First Appeal No. 133 of 2017

Smt. Manpreet Verma.Appellant.

Versus

Brij Verma. Respondent.

Present:

Mr. Ramji Srivastava, Advocate for the appellant.

None for the respondent.

Coram:

Hon'ble V.K. Bist, J.

Hon'ble Alok Singh, J.

Hon'ble Alok Singh:

1. Present appeal is filed against judgment and decree dated 09.11.2017 passed by Principal Judge, Family Court, Dehradun whereby Original Suit No. 379 of 2016 filed by the appellant wife under Section 13, 25, 26 and 27 of the Hindu Marriage Act was dismissed.

2. Heard Mr. Ramji Srivastava, Advocate for the appellant and perused the record.

3. None appeared on behalf of the respondent - husband despite sufficient service. It is pertinent to mention here that respondent / husband had also not appeared before the Family Court and present judgment and decree was passed ex parte.

4. Marriage of appellant / wife was solemnized with respondent on 26.10.2001 as per Hindu rites and rituals. Husband of the appellant is a practicing Advocate. Out of the wedlock, there is no child, however, it has come on record that Ms. Japleen is residing with the parties but she is adopted child of respondent's brother and her wife. Appellant has sought divorce on the ground of cruelty. Cruelty can be physical or mental. In the

present case, it is clear that appellant is suffering from both mental and physical cruelty.

5. There is specific averment that respondent is in habit of taking loans and he also took loan in the name of wife i.e. appellant and he also made her guarantor in some loans. He failed to repay his loans and as a result, appellant faced embarrassment. Respondent along with friends cheated one Ms. Dolly Gujral, who lodged FIR against them under various sections of IPC in police station Raipur, Dehradun. Respondent used filthy language and had not spent time with appellant. He spent most the time with one lady, who is residing in the same apparent where parties lived. He also gave beatings to his wife i.e. appellant.

6. Taking of loan is neither an offence nor shameful act but failed to repay it may cause embarrassment, as lender comes to recover his loan by any means. It also maligns the reputation of a person in society. Appellant is a house wife. Respondent also took loan in the name of his wife / appellant and also made her guarantor. Appellant has no source of income and she was deserted by her husband. In such circumstance, it was very painful for her to live because she has no source of income but has to repay the loan.

7. Learned Judge Family Court failed to appreciate evidence in right prospect. Learned Judge Family Court treated the condition of parties, as if they are living in penury while the fact is respondent / husband had taken various loans including for purchasing of luxury cars but he is not repaying the loans, which causes embarrassment and mental agony to the appellant.

8. In view of law laid down by Hon'ble Apex Court in the case of **Maya Devi Vs. Jagdish Prasad** reported in **AIR 2007 SC 1426** it can safely be said that all the activities and conducts of the

husband respondent are sufficient to establish the cruelty meted out by him to appellant. It is worthy to mention here that respondent is a practicing Advocate and he knows all consequences but he neither appeared before this Court nor appeared before Family Court, therefore, it appears that he is not interested in saving his marriage.

9. Accordingly, present appeal is allowed. Impugned judgment and decree dated 09.11.2017 passed by Principal Judge, Family Court, Dehradun is set aside. Decree of divorce is granted. Marriage between the parties stands dissolved. Respondent is directed to return the Stridhan mentioned in the list to the appellant within eight weeks from today. There is no representation for the respondent, therefore, appellant is directed to supply certified copy of this judgment at the earliest.

10. Let lower court record be sent back forthwith.

(Alok Singh, J.)
14.06.2018

(V.K. Bist, J.)
14.06.2018