

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.525 of 2013

Arvind Kumar Singh, son of Late Ram Parikshan Singh, Resident of
Village- Nawada Ben, P.S.- Udwantnagar, District- Bhojpur.

.... Appellant

Versus

Kiran Devi, D/o- Late Shiv Alam Singh, Resident of Village-
Bisanpura, P.S.- Bihita, District- Patna.

.... Respondent

Appearance :

For the Appellant : Mr. Rajani Ranjan Prasad Singh, Advocate.

For the Respondent : Mr. Gajendra Kumar Jha, Advocate.

Mr. Sushil Kumar Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 13-05-2015


Heard learned counsel for the appellant.

Respondent is also present.

2. This appeal has been filed by the appellant husband assailing judgment dated 16.03.2009 passed by Additional Principal Judge, Family Court, Patna in Matrimonial Case No. 460 of 2007, whereunder request of the appellant to dissolve his marriage with the respondent on the twin ground

of adultery, desertion has been rejected in the light of the evidence led by the parties. Learned court below in the light of the pleadings made by the parties framed as many as seven issues which have been noted in Paragraph 4 of the impugned judgment. To support his case appellant examined himself as P.W. 1. Respondent wife examined herself as D.W. 1, one Rajeshwar Singh, her neighbour, uncle by village relationship also supported the case of wife. The court below having considered the evidence discussed in Paragraphs 8, 9, after considering the submissions made by the counsel for the parties in Paragraphs 10, 11 recorded finding in Paragraphs 12 to 16, rejected the petition as none of the two grounds of desertion, adultery was made out. We, accordingly, directed the parties under our order No. 9 dated 06.05.2015 to resume their matrimonial life but the appellant did not take her to the matrimonial home on 06.05.2015 and left her in the train. In this connection, our order dated 06.05.2015, 11.05.2015 will speak for itself. In the facts and circumstances of the present case, we are satisfied that the grounds taken by the appellant seeking dissolution of his marriage with respondent is not made out, the appeal is dismissed.





3. Having dismissed the appeal, we direct the appellant, who is a pensioner from army to pay 1/3rd of his pension emolument including canteen facility to the wife. Let the wife present this order before the Commanding Officer of the Bengal Engineer Group Records PIN 908779, C/o 56 APO so that the competent authority of the Unit ensure release of 1/3rd pensionary emolument of the appellant in favour of respondent wife directly in her bank account. Respondent wife is directed to furnish her bank account number to the Commanding Officer. The payment in terms of this order should begin from the Month of May, 2015 and credited in her bank account by 5th of June, 2015 and every succeeding month thereafter.

4. In view of the aforesaid payment, respondent wife has agreed not to pursue Bihta P.S. Case No. 29/04 registered for the offence under Sections 498A, 494 and other allied Sections of the Penal Code and Sections 3, 4 of the Dowry Prohibition Act, Complaint Case No. 297(c)/02 registered for the offence under Section 498A and other allied Sections of the Penal Code, Complaint Case No. 1430/07, registered for the offence under Sections 323, 324 of

the Penal Code, which is, accordingly, quashed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

