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FA-1605-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

ON THE 5th OF MARCH, 2025

FIRST APPEAL No. 1605 of 2023

Versus

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Appearance:

Shri Yash Pal Rathore - Advocate for the appellant.

*Shri Virendra Sharma, learned Senior Counsel with Shri Satish Yadav
- Advocate for the respondent.*
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ORDER

Per. Justice Vivek Rusia

1. Appellant-wife has filed this appeal under Section 19(1) of Family Court Act, 1984 against the judgment dated 24.6.2023, whereby the Additional Principal Judge, Family Court, Ujjain has allowed the petition filed under Section 13 of Hindu Marriage Act by the respondent-husband and dissolved the marriage solemnized on 15.12.2018.

Facts of the case in short are as under:-

2. The respondent along with his younger brother went to the house of appellant to give her the marriage proposal. He had disclosed to her about his disability despite knowing this fact, the appellant gave consent for the marriage. The marriage was solemnized on 15.12.2018 under the Hindu



customs and rituals at Chhatarpur. According to the respondent, immediately after marriage the appellant started misbehaving with his mother. After one and half months of the marriage, she went to the house of her father on 5.4.2019. Thereafter she refused to come back to the matrimonial house. According to the respondent his mother suffered fracture and being a daughter-in-law she did not take care of her. She used to address his mother by abusive language and in order to protect the marriage, he and his mother tolerated her behaviors. According to the respondent, even after marriage the appellant used to talk with her two old lovers on mobile. He had an occasion to see the chatting between them and found that her chatting were very vulgar in nature. She used to discussed with them about physical relationship with husband. He has recovered the vulgar Whatsapp chatting with Vinod and L.K. Dubey.

3. The respondent made a written complaint to the police that this appellant used threaten him for implication in a false case. According to the respondent, a compromise was arrived in the police station and she gave in writing that she would not give any chance to blame in future. Her father who happens to be an Advocate, gave his statement in writing to the police admitting that his daughter has been indulging into the chats with other male friends which ashamed all the family members. When situation did not improve, the respondent approached the Family Court under Section 13 of Hindu Marriage Act seeking dissolution of marriage.

4. The appellant appeared and opposed the divorce petition by contending that the allegations are false and concocted. She has no such



friendship with Vinod and L.K. Dube. The respondent hacked her mobile and sent all those messages to Vinod and Dubey to create evidence to level false and baseless allegations. Husband has violated her right of privacy by procuring the chatting from her mobile. In reply by way of special pleadings, she made an allegation against the respondent-husband about beating, insulting, demanding dowry of Rs.25 Lacs etc.

5. On the basis of the pleadings, the learned Family Court framed four issues for adjudication. Appellant and respondent submitted their evidence in the form of affidavit under Order 18 Rule 4 of CPC. They cross-examined each other. The respondent also examined his mother Dr. Sudha Tripathi as PW-2 who was also cross examined. The respondent exhibited marriage card, marriage photographs, complaint, statement of Bhuvnesh Prasad (father of appellant), print out of Whatsapp chatting with Vinod and Dubey , in Pen drive, and in the form of CD etc. After evaluating the evidence that came on record, the Family Court has granted the decree of divorce on the ground of mental cruelty. Hence, this appeal before this Court.

We have heard the learned counsel for the parties and perused the record.

6. The respondent-husband filed a petition seeking divorce on the ground of mental cruelty caused by the wife after the marriage on 15.12.2018. The respondent is working as a Manager in the Nationalized Bank. He is partially deaf and despite knowing this fact, the appellant did agree to perform marriage with him. He made allegation that after the marriage behaviour of his wife was very cruel with his mother. She used to



address his mother as 'mother of deaf' (बहरे की मां). He was ill-treated by her in front of his mother and grand-mother. She is in habit of talking to her lover hours together in his absence as well as mother. He had an occasion to see the said conversation, he found that she was chatting with her male friends about the sexual relation with him. When he tried to prevent all these conversation, she threatened him to implicate in the false case. However, in cross-examination the appellant denied all these allegations but she admitted that she was called in the Police Station - Neelganga on 2.9.2020 and submitted an apology letter.

7. Most important fact is that father of the appellant also admitted that his daughter is in the habit of talking to male friends and due to which he was ashamed . These documents have been exhibited before the Family Court which the appellant did not deny in entirety. The learned family court has observed that father of the appellant is a practicing lawyer having 40-50 years standing in the Bar but he did not enter into the witness box to deny the his statement given to the police. Ex.A/4 & A/6, the printout of the chatting of this appellant with Vinod and others, are not a decent conversation. There is no counter blast by way of FIR or complain of the Domestic violence etc. against the respondent, which establishes that the allegations of the respondent against wife are correct.

8. It is not expected from a wife or husband to indulge into in to the undignified or indecent conversation by way of chatting with a male or female friends as the case may be that too after marriage. No husband would tolerate that his wife is in conversation through mobile by way of these type



of vulgar chatting. After marriage husband and wife both have freedom to have a conversation by way of mobile, chatting and other means with friends but the level of conversation should be decent and dignified , specially when it is with an opposite gender, which may not objectionable to the life partner. If despite objection husband or wife continues with such activity of activities , then certainly it causes mental cruelty. We are in completely agreement with reasoning given by the Id. Family court. The respondent has certainly make out the case by way of evidence that the appellant committed mentally cruelty upon him. Learned counsel for the appellant has failed to point out any perversity in the findings recorded by the family court, hence the appeal is liable to be dismissed.

9. The the judgment dated 24.6.2023, passed by the Additional Principal Judge, Family Court, Ujjain whereby the marriage of the appellant and respondent has been dissolved is hereby affirmed and first appeal is accordingly dismissed.

Record be sent back.

(VIVEK RUSIA)
JUDGE

(GAJENDRA SINGH)
JUDGE