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**M. Vs.v.s.**

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**SooperKanoon Citation** : sooperkanoon.com/1214146

**Court** : Delhi

**Decided On :** Apr-11-2018

**Appellant** : M.

**Respondent** : V.s.

**Advocate for Pet/Ap.** : Mr. Satish Kumar

**Judgement** :

IN THE HIGH COURT OF DELHI AT NEW DELHI $~27 * % + MAT.APP.(F.C.) 73/2018, CM APPL. 13930/2018 (exemption), CM APPL. 13931/2018 (Stay) and CM APPL. 13932/2018 (Condonation of delay 35 days in filing of appeal) Decided on:

11. 04.2018 M. V.S. ..... Appellant Through: Mr Satish Kumar, Adv. Versus ..... Respondent Through: None CORAM: HON'BLE MR. JUSTICE SIDDHARTH MRIDUL HON'BLE MS. JUSTICE DEEPA SHARMA SIDDHARTH MRIDUL, J.

(ORAL) 1. The present appeal under Section 19(1) of the Family Courts Act, 1984 assails the judgment and decree dated 19.01.20018, passed by the learned Family Court, Dwarka, New Delhi, in HMA No.817/2017, titled as V.S. vs. M., whereby the petition for divorce instituted on behalf of the respondent/husband was decreed and the marriage between the parties was dissolved.

2. Having heard the learned counsel appearing on behalf of the appellant at length and perused the Trial Court record, it is evident that the respondent/husband has

been able to successfully establish the following circumstances against the appellant/wife:-

"MAT. APP. 73/2018 Page 1 i. That the husband has been harassed and treated with cruelty by the wife by using derogatory language against him and his family members; ii. That the husband tried his best to bring back the wife from her parental home, but the latter was not agreeable to join him in her matrimonial home; iii. That the wife made various complaints against the husband and his family members inter alia, levelling serious allegations regarding having furnished false date of birth of husband, as well as, being involved in various criminal cases pending before Courts; taking leave from service by furnishing false medical certificates; using warrant of third parties for the travel of members of his immediate family; giving illegal gratification to the ticket checker on the Rajdhani Express train and harassing and torturing her; resulting in enquiries against the husband which were subsequently found to be patently untrue. iv. That the wife levelled false allegations against the husband regarding demand of dowry; v. That the wife falsely alleged in the written statement that her husband did not permit her parents to see their newly born child, as a result of which her mother passed away in shock. vi. That there had been no cohabitation between the parties since 16.01.2012, the marriage having been solemnized on 17.11.2010 and that the wife would refuse to answer the question during her cross- examination as to whether she wished to reside with her husband. MAT. APP. 73/2018 Page 2 3. The above findings are inter alia predicated on the husband having averred and proved by leading cogent evidence that the wife had been using abusive language against him and his family members as follows:-

"Ki Jaise Main Kehti Hoom Vaise Hi Karo varna Tere Aur Tere Kahndaan ko Jaan se mardungi aur tume pata bhi nahin chalega tumhare saath kya hua, Meri saari Shartein Maan Lo Varna Tumahra aur Tumhare Pariwar Walon Ka Vo Haal Karungi Ki Tum Soch Bhi Nahn paoge aur tumhe jhuthe mukadme main fasa dungi aur teri chhati par saap ban kar rahungi aur tu mera kuch bhi nahin kar sakega... Kil Kil Ke Marega Na to tu mere saath rehne layak reahega aur nahi mere se alag hone layak rahega.. Mera Baap workers Union Ka Leader Hai aur IAS IPS officers ka hamare ghar aana jana hai tu aur tere parivar ko wo haal hoga

jo tune sapne main bhi nahi socha hoga. Tera to Baap Bhi Mar chukka hai aur teri maa to bimari se laachar hai, tere aage peeche koi nahin hai jo tujhe dahej ke case se bacha sakega isliye jaise main kehti hoon waisa tu kar. Tu Biwi Nahi apna Kaal Ghar Mein Le Kar Aaya hai. 4. It is relevant to observe that the asseverations made on behalf of the husband, have not been denied by the wife, nor was any attempt made by the latter to cross-examine the former, to test the veracity of the instances of the wife employing abusive language.

5. Further, the husband has been able to establish through cogent evidence that the wife made various complaints against him with the Air Force Headquarters, New Delhi, of which he is an employee, levelling serious allegations against him and his family members which resulted in an enquiry. The enquiry concluded that the same were false and untenable. In this behalf, it is observed that the wife, in her own deposition, admitted that she had filed a complaint against the husband on 12.09.2013 before Air Force Headquarters, New Delhi. The wife further admitted that she had also MAT. APP. 73/2018 Page 3 filed complaints against the husband in his office, as well as, before other authorities, including admittedly a complaint addressed to the Prime Minister, PMO, South Block New Delhi, as well as, one addressed to Air Chief Marshal, Air Head Quarter. The wife has further deposed that she has received a reply from the office of the Air chief Marshal, Air Head Quarter, Vayu Bhawan, Rafi Marg, New Delhi, to the effect that her complaints are being looked into. She has not filed the afore-mentioned reply on record of this case.

6. It is also a matter of record that during the course of her cross- examination, a specific question was put to the wife, inasmuch as, whether she would wish to join the company of her husband. Initially, she refused to respond to the said query, but finally asserted that she did not wish to do so, owing to the conduct of her husband towards her. In this behalf, it would be relevant to observe that the assertion made on behalf of the wife alleging the factum that the husband himself did not want to stay with her at the matrimonial home is itself belied by the clear and unequivocal deposition of the wife, as recorded in paragraph 45 of the impugned judgment.

7. In this view of the matter, it is axiomatic that the husbands conduct was unimpeachable in this behalf and that he had exhibited both support and affection to the wife at all the relevant times.

8. Lastly, the wifes irresponsible allegation that the conduct of the husband in preventing his mother-in-law from visiting the child of the parties at the time of the latters birth was negated by the wifes testimony clearly admitting that, her mother had been a heart patient and had died, owing to a heart attack and not because of the conduct of the husband.

9. In view of the foregoing, we have no hesitation in coming to the conclusion that the levelling of false, serious, unsubstantiated and scandalous allegations against the husband cannot be stated to be a part of normal wear- MAT. APP. 73/2018 Page 4 and-tear of married life and that the husband has successfully been able to prove that the wife, by her conduct, has treated him with cruelty within the meaning of Section 13(1)(ia) of the Hindu Marriage Act, 1955 which reads as under:-

"13. Divorce. - (1) Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party- (i) XXX XXX XXX XXX (ia) has, after the solemnisation of the marriage, treated the petitioner with cruelty; or 10. In view of the foregoing, we are of the view that the impugned order, which is a well-reasoned one, does not call for any interference by this Court in the present appeal.

11. The appeal along with the pending applications is accordingly dismissed and disposed off. SIDDHARTH MRIDUL (JUDGE) DEEPA SHARMA (JUDGE) APRIL11 2018 bg MAT. APP. 73/2018 Page 5

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