



MOOT PROPOSITION

FACTS OF THE CASE:

BEFORE THE HON'BLE FAMILY COURT OF BOMBAY

Aarohi.....Petitioner

Vs

Amit Kumar..... Respondent

1. The present appeal relates to a Petition filed under Section 13 of The Hindu Marriage Act, 1955 by Aarohi, the Petitioner wife, praying that the marriage between the parties be dissolved by a decree of the court.
2. The parties to the dispute entered into a marital agreement on 01.04.2001. As per the contentions laid down by the Petitioner wife, the Petitioner wife resided in her matrimonial home for 5 days post the solemnization of marriage, but marriage between the parties was not consummated.
3. The husband mistreated her, and they never shared the bed together. She returned to her parents' home after 5 days. Following the cultural practice in the Indian society, her parents sent her back to her matrimonial place explaining that with time pass by, situations will get better and the husband's approach towards the tie would improve.
4. In spite of spending five years with the Respondent husband, situations remained the same with no sign of improvement. As per her submissions, the Respondent husband would return home late at nights in a drunken state and would physically, mentally and emotionally abuse her. He would beat her in the state of drunkenness. She extended efforts to persuade and convince him.



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5. However, all her attempts to mend ways were proved to be in vain. She also discovered that the Respondent husband was a man of weak character. He was involved in extramarital relationships with multiple women, was an alcoholic and used to consume intoxicants. She moved out of her matrimonial residence in May 2006 and since then has been staying with her parents at her parents' place.

6. The Respondent husband replied to the contentions in a contradictory manner and stated that the Petitioner wife was given a bona fide treatment during their stay together. He further stated that the Petitioner wife was not interested in residing in the village and kept convincing him to move to the city. Perhaps, he was an unemployed man and could not afford the city life, and so the demand was totally absurd and unacceptable to him.

7. Thereafter, the Petitioner wife moved out of the matrimonial home without citing any reasonable and valid justification along with her personal belongings, including stridhan. He consistently made efforts to get her back to their matrimonial home, but she refused to return.

8. Thereafter, he filed a petition under Section 9 of The Hindu Marriage Act, 1955 praying for restitution of conjugal rights. The court was pleased to grant his prayer. The said petition was neither contested by the wife nor did she return to her matrimonial home. All other material averments of the petition were denied, and it was prayed that the petition be dismissed with costs.

ISSUES:

1. Whether the grounds stated in the petition by the Petitioner are sufficient enough to entitle her to obtain a decree of divorce by the court?
2. Whether the petition is maintainable?
3. Whether the Petitioner has any cause of action and locus standi to file and maintain the present petition?