# IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 15th OF OCTOBER, 2025

FIRST APPEAL No. 334 of 2021

[redacted]

*versus*

*SMT.* [redacted]

Appearance:

*Shri Pradeep Kumar Naveria - Advocate for appellant.*

*Shri Jagadish Prasad Kanojia - Advocate for respondent.*

JUDGMENT

*Per. Justice Anuradha Shukla*

Appellant/husband has assailed the judgment and decree dated 24.02.2021 passed in Civil Suit No.71-A/2018 by the Principal Judge, Family Court, Mandla, rejecting his divorce petition filed on twin grounds of desertion and cruelty.

2. The facts not in dispute are that the parties were married on 23.06.2004 and two children were born to them. It is also admitted that both appellant and respondent are public servants, and respondent had filed a petition under Protection of Women from Domestic Violence Act, 2005 (for short, the Act of 2005) in which a compromise was reached between the parties. It is also admitted that parties are living separately since 2017.

3. The facts of the divorce petition are that the parties lived cordially only for some years and their relationship went bitter since 2015. There was no

matrimonial relationship between them since then and respondent/wife started living separately since 05.06.2017 in a separate house. Her behaviour with appellant/husband was cruel and she used to make false allegations against him. A request was, accordingly, made to allow the divorce petition.

4. Respondent/wife contested the case on the ground that she was being subjected to physical and mental cruelty for which she had to file a petition under the Act of 2005 and in that case appellant/husband had offered apologies after which a compromise was reached between the parties. Appellant/husband was of very suspecting nature and used to cast aspersions of the character of wife. Looking to her own safety and also the future of children, the only option she was left with was to live separately. She never wanted to seek divorce, while appellant/husband was eager for dissolution of marriage so that he could solemnize a second marriage. He also avoided the liability towards children. It was proposed that if husband mends his way, the wife was willing to live with him. A request was therefore made to dismiss the divorce petition.

5. The issues were settled by the Court on the basis of pleadings and after recording the evidence, it dismissed the divorce petition.

6. This appeal has been contested on the grounds that impugned judgment and decree are erroneous and against the evidence produced before the trial Court as it erred in interpretation of facts and apply the correct law. A finding was given that appellant/husband was habitually consuming liquor and was harassing the respondent/wife, but there was no proof regarding this behaviour. Respondent/wife was making false and baseless allegations. She was neither interested in resuming the marital ties nor in seeking the divorce, and this implacable attitude amounted to cruelty. A request was therefore made to allow

the appeal and pass a decree of divorce.

7. Learned counsel for appellant and also of respondent have been heard on merits. The record of the trial Court has been perused.

8. Facts reveal that wife is living in a separate house since 05.06.2017. It was although claimed by husband that their marital relations had come to an end when the wife got transferred to a different place in 2013, but during his cross-examination he has admitted that matrimonial relationship was finally snapped on 05.06.2017, and prior to that date parties used to live as husband and wife. Incidentally, the divorce petition was filed on 10.07.2018, therefore, it can be instinctively concluded that the mandatory period of two years of desertion was not complete as on the date of filing of divorce petition, and their relationship of husband and wife was continuing immediately prior to 05.06.2017. The ground of desertion is, therefore, not available to the appellant/husband in the present case.

9. The other contested issue is of cruelty allegedly committed by wife and in this case, this ground included the facet of false allegations made against the husband, but the trial Court was of the view that husband was cruel to wife and not vice-versa.

10. According to the wife, appellant/husband was addicted to intoxication and his cruel behaviour compelled her to file a case under the Act of 2005. The trial Court too reached to this finding and for this, it heavily relied upon the documents of Ex. D/1 to D/4. The document of Ex.-D/1 was the jointly signed application given by both the parties requesting the Lok Adalat to settle their case on the basis of compromise, while Ex.-D/2, had the terms of compromise set out between the parties. In Ex.-D/2, it was admitted by appellant/husband that he used

to physically assault the respondent/wife on trivial matters and was also neglecting his obligations towards wife and children. Further it was assured by him in Ex.-D/2 that, henceforth, he would take care of his wife and children and parties, consequently, decided to live together once again. Said compromise was signed on 19.11.2011 and no proceedings were ever registered thereafter against the appellant/husband. Ex. D/3 was the order passed by Lok Adalat on the basis of this compromise. In none of these documents, it is mentioned that the appellant/husband had any habit of taking liquor. The last document was Ex. D/4, which was a complaint given to Police Paramarash Kendra on 24.02.2015 by respondent/wife, but it appears that police did not take any follow-up action on its basis. Thus, whatever wicked deeds were confessed by appellant/husband in the year 2011, under Ex.-D/2, had evidently no recurring episodes in subsequent years of his marital life. Further, whatever was stated by the wife regarding this habit to intoxication, the same was rebutted by appellant-husband in his statement given on oath. Thus, documents of D/1 to D/4 do not have any evidentiary value to support the allegation of addiction of appellant/husband to liquor.

11. In para 18, the trial Court relied upon the testimony of the brother of respondent/wife regarding some incident, which occurred during reception ceremony of brother of respondent/wife and having reflections upon the habit of alcoholism, but no pleadings are available in the written reply of respondent/wife regarding this incident. Thus, we may say that, against the propositions of civil law, the trial Court was admitting and placing reliance on evidence, which was definitely beyond the scope of pleadings. From this discussion, it is established that the allegations of taking liquor made against appellant/husband was not duly proved by respondent/wife and the trial Court committed error in holding that

appellant/husband was given to alcoholism.

12. Now let us examine whether any cruelty was committed by respondent/ wife to the appellant/husband. We are aware that the expression of mental cruelty is not static and, depending upon the human behaviour, new instances of cruelty may crop up. In the present case, wife has shown no hesitation in declaring that her husband/appellant was alcoholic and was thus given to intolerable habits. Admittedly, appellant/husband is a class IV employee while respondent/wife is in the Officer cadre, but both are serving in public sector. We have no hesitation in observing that normal bickering and quarrels between the parties, happening in their day to day life, can not be taken as a matter of grave concern, but a persistent resolved attitude of respondent-wife to see that her husband is ridiculed and humiliated in his social circle as an alcoholic is definitely a serious affair. An unjustified behavior of one spouse actually affecting physical or mental health of other spouse has been considered as serious and grave case of mental cruelty in **Samar Ghosh v. Jaya Ghosh, AIR 2007 SC 3148** . In **Chanderkala Trivedi (Smt.) Vs. Dr. S.P. Trivedi, (1993) 4 SCC 232** , the Hon'ble Apex Court considered the serious allegations made by a party against the other and it observed that it was obvious that the marriage of the two could not be continued in these circumstances any further. In the case of **V. Bhagat Vs. D. Bhagat (Smt.), (1994) 1 SCC 337** , the Court observed that in spite of making various allegations against husband, the desire of wife to live with him was only a resolution to make the life of husband further miserable and this attitude was considered as cruelty. In the case on hand, the wife, in order to avoid marital obligations, has made unfounded allegation of habit of intoxication against the appellant/husband and has thus exposed him to social sham and contempt by compromising his social position of a public servant.

Her act of baseless accusation definitely has a decisive impact on the future relationship of the parties and in this state of facts, the dismissal of divorce petition was not legitimate and warranted.

13. We accordingly allow this appeal on the ground of cruelty committed by making false allegation of addiction to intoxication and also contesting the divorce petition despite being resolute in not resuming the cohabitation. Accordingly, impugned judgment and decree are set aside and the marriage solemnized between the parties on 23/06/2004 is declared to be dissolved from the date of this judgment.

14. Registry is directed to draw the decree accordingly.

**(VISHAL DHAGAT)**
**JUDGE**

**(ANURADHA SHUKLA)**
**JUDGE**

sjk