



IN THE HIGH COURT OF JHARKHAND AT RANCHI
FIRST APPEAL No. 07 of 2022

Sanjay Kumar Gupta, aged about 35 years S/o Late Bishwanath Gupta, Resident of Village- Sukhdeonagar, Ratu Road P.O. Hehal P.S. Sukhdeo Nagar, District- Ranchi (Jharkhand) **Appellant**

Versus

Sarita Baraik, W/o Sanjay Kumar Gupta R/o Diptitoli, P.O. & P.S. Simdega, District- Simdega (Jharkhand) **Respondent**

CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Kripa Shankar Nanda, Advocate
 For the Respondent : Mrs. Rashmi Kumari, Advocate

15/07.04.2025 Heard Mr. Kripa Shankar Nanda, learned counsel for the appellant and Mrs. Rashmi Kumari, learned counsel appearing for the respondent.

2. This appeal is directed against the judgment dated 07.01.2022 and decree dated 20.01.2022 passed by Smt. Sanjeeta Srivastava, learned Additional Principal Judge, Additional Family Court, Ranchi, in Original Suit No. 239 of 2020 whereby and whereunder, the suit preferred by the appellant herein for dissolution of his marriage with the respondent has been dismissed.

3. For the sake of convenience, both the parties are referred to in this judgment as per their status before the learned trial court.

4. The plaintiff (appellant herein) had filed a suit for dissolution of marriage on the ground of desertion against the defendant (respondent herein) under Section 13 (1) (ib) of the Hindu Marriage Act in which it has been stated that the marriage of the plaintiff was solemnized with the defendant on 19.05.2014 at Puri in the State of Odisha as per Hindu rites and customs and after marriage, they started residing together at Sukhdeonagar, Ranchi.



5. It has been stated that since 15.05.2018 both the parties are living separate and in fact from the said date the defendant has deserted the plaintiff.

6. It has also been stated that after a few days of pregnancy of the second child, the defendant had started quarreling with the plaintiff resulting in a strained relationship between them and the defendant had left her matrimonial house in the month of May, 2018 and started staying at her parental house without any reasonable cause and without the consent of the plaintiff. Two children were born out of the wedlock between the plaintiff and the defendant and it has been stated that despite several efforts made by the plaintiff to resume his matrimonial relationship with the defendant but without any reasonable cause the defendant has refused to join the company of the plaintiff as a result of which, the suit was preferred by the plaintiff for dissolution of marriage with the defendant on the ground on desertion.

7. Despite service of notice upon the defendant, she did not appear and the suit proceeded *ex-parte*.

The point for determination before the learned trial court was whether the defendant had deserted the plaintiff without any reasonable cause and whether the marriage between the plaintiff and defendant is liable to be dissolved on the ground of desertion allegedly administered by the defendant.

8. The plaintiff in support of his case has examined three witnesses including himself.

9. P.W.-1, Sanjay Kumar Gupta, is the plaintiff who has stated about solemnization of his marriage with the defendant on 19.05.2014 and after marriage she was brought to her matrimonial house where every facilities were provided by the plaintiff.



He has stated that sometimes the behavior of the defendant towards him was not normal as a result of which there was no balance in the marital relationship between him and the defendant. When he had tried to reason out with the defendant to behave properly the defendant would resort to abuses and used to humiliate him. On account of the wedlock between him and the defendant, defendant had given birth to two children.

There was a continuous demand of expensive articles on a regular basis by the defendant and when he had showed his reluctance to accept such demand, the defendant would leave for her parental house and ultimately on 15.05.2018 the defendant had finally left for her parental house never to return despite several efforts made by him to resume the marital ties with the defendant.

He had also taken efforts to take the *bidai* of the defendant for which the panchayat was approached on several occasions but the defendant refused to come back to her matrimonial house.

10. P.W.-2, Shiv Kumar Lal and P.W.-3, Dhiraj Kumar Burman have reiterated what has been stated in his sworn statement by the P.W.-1.

11. The learned trial court vide judgment dated 07.01.2022 dismissed the suit preferred by the plaintiff (appellant herein) which resulted in filing of the present appeal.

12. Mr. K.S. Nanda, learned counsel appearing for the plaintiff-appellant has submitted that the plaintiff had made several efforts to resume his marital ties with the defendant but the defendant without any reasonable and plausible cause had refused to come back to her matrimonial house which virtually compelled the plaintiff to



file the suit for dissolution of marriage on the ground of desertion.

13. It has further been submitted that on several occasions panchayati was convened at the behest of the plaintiff and despite the directives of the panchayat the defendant had refused to come back to her matrimonial house.

14. Mr. Nanda, learned counsel appearing for the plaintiff-appellant has submitted that the plaintiff runs a school and is agreeable to settle the issue by providing one time permanent alimony to the defendant.

15. Mrs. Rashmi Kumar, learned counsel appearing for the defendant-respondent has submitted that the plaintiff has miserably failed to prove his case of desertion against the defendant and the factual aspects of the case have correctly been appreciated by the learned trial court while dismissing the suit.

It has further been submitted that the defendant is always ready and willing to resume her matrimonial relationship with the plaintiff but the plaintiff did not take any efforts in this regard and in fact had surreptitiously filed a suit for dissolution of marriage on the ground of desertion.

16. We have heard the learned counsel for the respective parties and have also perused the trial court records.

17. The suit was decided *ex-parte* as despite service of notice upon the defendant, she did not appear.

18. On a perusal of the plaint and the evidence of the plaintiff witnesses including the plaintiff it clearly transpires that the plaintiff has failed to substantiate his assertion that the defendant had deserted him on 15.05.2018 and despite repeated efforts made by the



plaintiff she has refused to come back to her matrimonial house to resume her conjugal life with the plaintiff.

19. The learned trial court has taken into consideration the fact that nothing has been brought on record to substantiate the allegations made by the plaintiff and in fact though it has been asserted in the plaint as well as in his evidence by the plaintiff that several times panchayati was convened but there is no document in order to prove such assertion.

20. The learned trial court has also taken into consideration the fact that none of the family members of the plaintiff have been examined to which K.S. Nanda, learned counsel for the appellant, has submitted that the parents of the plaintiff had already dead and that was the reason for non-examination of the family members of the plaintiff.

21. The allegations made in the plaint and the evidence of the witnesses with respect to desertion so far as the defendant is concerned appears to be vague and unsubstantiated with any documentary evidence.

22. It further appears that the plaintiff has failed to highlight that without any reasonable cause and without the permission of the plaintiff the defendant had left her matrimonial house.

23. As has been stated by Mrs. Rashmi Kumar, learned counsel appearing for the defendant-respondent, the defendant is still ready and willing to live with the plaintiff if she is kept with full dignity and honour, but the entire gamut of the allegations would reveal that the plaintiff is not interested to resume his matrimonial relationship with the defendant and on flimsy grounds had filed a suit for dissolution of marriage.



24. The learned trial court has appreciated the evidence on record as well as the averments made in the plaint and has correctly come to a conclusion that the plaintiff has failed to prove the ground of desertion while seeking dissolution of his marriage with the defendant.

25. We do not find any reasons to differ with such findings and consequently, we dismiss this appeal.

(Rongon Mukhopadhyay, J.)

(Arun Kumar Rai, J.)

Umesh-Abhishek/-