



HIGH COURT OF CHHATTISGARH, BILASPUR

FA (MAT) No. 45 of 2022

Reserved on 26/04/2024

Pronounced on 10/05/2024

---- Appellant

Versus

---- Respondent

For Appellant

:Shri Uttam Pandey and Shri Ashutosh
Biswas, Advocates

For Respondent

:Shri Pankaj Bhaskar and Shri Palash
Rajani, Advocates

DB: Hon'ble Shri Justice Goutam Bhaduri &

Hon'ble Shri Justice Sanjay S. Agrawal, JJ

C A V Judgment

Per Sanjay S. Agrawal, J.

1. This appeal has been preferred by the Non-Applicant/wife against the judgment and decree dated 11.01.2022 passed by the Third Additional Principal Judge, Family Court, Durg (CG) in Civil Suit No. 842/2019, whereby, the application filed by the husband/Applicant seeking annulment of marriage, held on 29.05.2019, has been declared as null and void. The parties shall be referred hereinafter as per their description before the trial Court.

2. Briefly stated the facts of the case are that the Applicant- filed an application under Section 12 (1)(b) read with Section 5 (ii) of the Hindu Marriage





Act, 1955, seeking declaration to the effect that the marriage of him solemnized with the Non-Applicant- on 29.05.2019 at village- Bhaluwa, District Rewa (MP), be declared as null and void. It is alleged in the application that his wife was suffering from mental disorder even prior to the alleged marriage and was unfit for the marriage, however, the said material fact was suppressed by her parents at the time of marriage and succeeded to get the alleged marriage solemnized by playing fraud upon him. It is alleged further that they lived only for 04 days after the solemnization of the alleged marriage and contended further that even at the time of marriage, his wife was vomiting and owing to her unconsciousness, it caused hindrance the marriage ceremony and when asked about it, her parents informed that due to late night sleep, it has occurred. It is contended further that even on the first day after the marriage, she refused for sexual intercourse with him and during the short period of 04 days of her living with him, her behavior was shown to be abnormal and since the alleged marriage was performed while suppressing the material fact pertaining to her abnormal state of mind, therefore, the alleged marriage deserves to be declared as null and void.

3. While denying the aforesaid allegations as made by the Applicant/husband, it is pleaded by the Non-Applicant/wife that during her stay with her husband, a demand was made by him and in-laws to the extent of Rs.3 lacs (Rs.Three lacs) and was threatened to be declared as insane, if failed to fulfill the alleged demand. The claim as made is, therefore, liable to be dismissed.

4. In support, the Applicant has examined himself and as many as 3 of his witnesses, while the Non-Applicant has examined herself along with her cousin, in rebuttal.



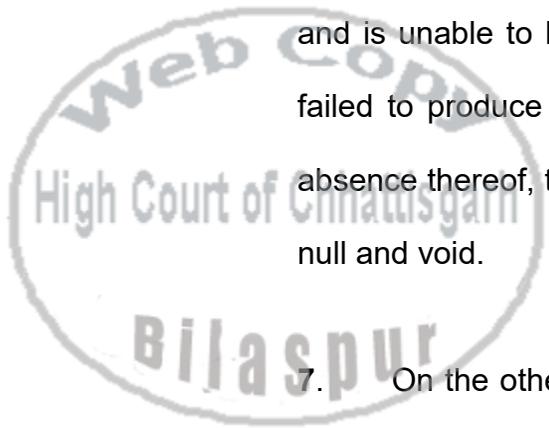
5. The trial Court after considering the evidence led by the parties, arrived at a conclusion that the Non-Applicant/wife has been suffering from mental disorder and her marriage with the Applicant/husband has been solemnized upon suppressing the said material fact and, in consequence, the alleged marriage has been declared as null and void, which has been impugned by way of preferring this appeal.

6. Learned counsel appearing for the Appellant/wife submits that the finding of the trial Court holding that the Non-Applicant/wife has been suffering from mental disorder, is apparently contrary to the material available on record. It is contended that in order to establish the fact that she has been suffering from mental disorder and is unable to be fit for marriage, is upon the Applicant/husband, however, he failed to produce any cogent and reliable evidence in this regard. Therefore, in absence thereof, the trial Court ought not to have declared the alleged marriage as null and void.

7. On the other hand, learned counsel appearing for the Respondent/husband has supported the impugned judgment and decree as passed by the trial Court.

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

9. Admittedly, the marriage between the parties was solemnized on 29.05.2019 at village Bhaluwa of District Rewa (MP) in accordance with the Hindu rites and rituals and they lived only for 04 days. According to the statement of the Applicant/husband (PW-1), his wife is not fit for marriage as she has been suffering from mental disorder and while suppressing this material fact, his marriage was got



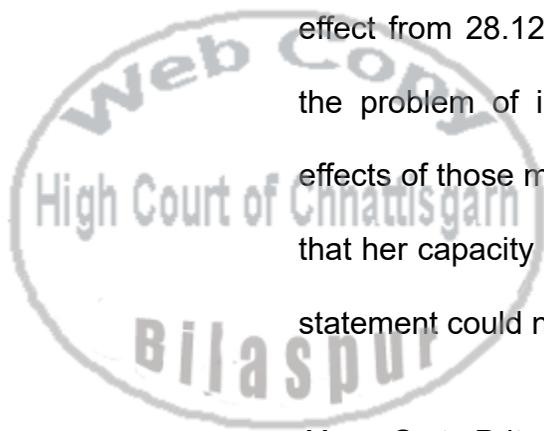


solemnized on the said date, i.e. 29.05.2019, and therefore, he lived only for 04 days with his wife. He deposed further that she was being treated by a Psychiatrist – Dr. Pramod Gupta prior to the alleged marriage while producing the medical documents, marked as Ex.P-3-C to Ex. P-10-C.

10. Dr. Pramod Gupta, who was a Psychiatrist, was examined as PW-4 and according to him, the Non-Applicant was examined by him on 28.12.2015, i.e. prior to the solemnization of her marriage and, found certain abnormal symptoms, like smiling and muttering to self, being fearful, suspicious, hearing voices, sleep decreased, and anger and, such symptoms could come in the disease like F-31. He deposed further that he examined her for about 8-10 months commencing with effect from 28.12.2015 upto 25.10.2016 and deposed further that she could face the problem of infertility, while taking the regular medicines owing to the side effects of those medicines. It is stated further that during her examination, he found that her capacity to take a decision is low and her disease is serious in nature. His statement could not be rebutted in cross-examination.

11. Smt. Pritu Tiwari (PW-2) is the elder sister-in law (Jethani) of the Non-Applicant and, according to her, she has seen abnormal behavior on her. Tarachand Tiwari (PW-3) is the cousin of the Applicant and it was admitted by him that the Non-Applicant was treated by Dr. Nimisha Mishra when a suggestion to this effect was made to him. It, thus, appears that the Non-Applicant was examined by the said Doctor also, though she was not examined. He deposed further that she was taken to the Psychiatrist for her treatment.

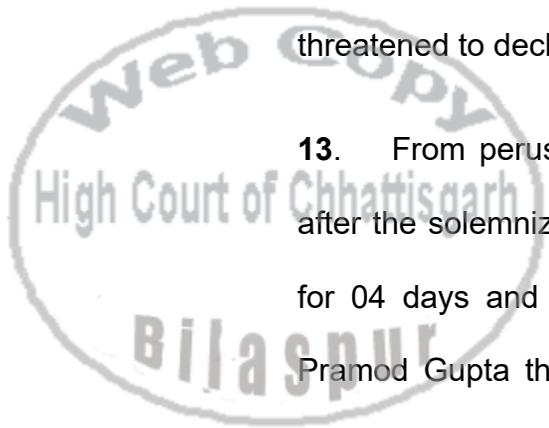
12. The Non-Applicant/wife was examined as NAW-1 and it was stated by her that her brother-in-law and sister-in-law (Jethani) and others have demanded a





sum of Rs.3 lacs and threatened to declare her lunatic, if failed to fulfill the alleged demand and owing to which, she has lodged the report. She deposed further that since the alleged demand was not fulfilled, the alleged false allegations have, therefore, been levelled against her. In her cross-examination, it was stated that she lived with her husband for 04 days and her treatment was being done since the year 2015 and was examined by Dr. Pramod Gupta on 17.12.2015. She stated further that the said Doctor has prescribed the medicines on 28.12.2015, 30.12.2015, 11.01.2016 and 11.11.2016, which was given for the treatment of her mental disease. Laxmikant Mishra (NAW-2), who was the cousin of the Non-Applicant, while reiterating the version of his cousin (Non-Applicant/wife) stated that after the marriage, her in-laws have demanded a sum of Rs.3 lacs and threatened to declare her insane, if she failed to fulfill the alleged demand.

13. From perusal of the aforesaid evidence led by the parties, it appears that after the solemnization of the marriage on 29.05.2019, the parties have lived only for 04 days and it appears further from the evidence of the Applicant and Dr. Pramod Gupta that the Non-Applicant/wife was treated by the said Doctor, who was a Psychiatrist, for her mental disease even prior to the alleged marriage and, who had prescribed medicines on different dates as revealed from his evidence. Her treatment was, thus, found to be made prior to the alleged marriage, however, the said material facts have not been disclosed to the Applicant at the time of alleged marriage. It appears further that the initial burden rests upon the Applicant in this regard was, thus, discharged by him by establishing the fact regarding the mental disorder of his wife, who however, has failed to disprove the same. It is, thus, evident that the Non-Applicant/wife has been suffering from mental disorder and is unfit for the marriage. It is noteworthy as observed herein above, that the parties had lived together as husband and wife only for a period of 04 days owing





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to the alleged abnormal condition of the Non-Applicant, therefore, under such circumstances, it cannot be expected from the Applicant to live with the Non-Applicant. The trial Court, has, therefore, after due consideration of the evidence led by the parties, has not committed any illegality in holding that the wife of the Applicant has been suffering from mental disorder and has suppressed the said material fact from him, while declaring the alleged marriage as null and void, so as to call for any interference in this appeal.

14. The appeal being devoid of merits is, accordingly, dismissed.

No order as to cost(s).

A decree be drawn accordingly.

Sd/-

(Goutam Bhaduri)
JUDGE

Sd/-

(Sanjay S. Agrawal)
JUDGE

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