



REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 14276 OF 2024

████████████████████ **...APPELLANT(S)**

VERSUS

████████████████ **...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. The present appeal arises from the judgment dated 28.06.2023 passed by the High Court of Jharkhand in First Appeal No. 242 of 2019, whereby the appellant/husband's appeal was dismissed, affirming the judgment dated 02.07.2019 of the Family Court, Ranchi in Original Suit No. 107 of 2014. By the said judgment, the Family Court dismissed the appellant's petition for dissolution of

marriage under Sections 13(1)(ia) and (iii) of the Hindu Marriage Act, 1955¹.

2. The marriage between the appellant and the respondent was solemnized on 24.11.2012. Two children were born out of the said wedlock. The first child, a daughter, was born on 17.08.2013. Thereafter, on 06.03.2014, the appellant instituted a petition under Sections 13(1)(ia) and (iii) of the HMA before the Family Court, Ranchi (M.T.S. No. 107 of 2014), seeking a decree of divorce. At the time of filing the suit, the respondent was pregnant with their second child.

- 2.1. Subsequently, the respondent filed Complaint Case No. 1980/2014, alleging mental and physical cruelty against the appellant and his parents, invoking provisions of Section 498A of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961. On 30.11.2014, the respondent gave birth to their second child, who was diagnosed with cerebral palsy. In the divorce proceedings, the appellant alleged that the respondent subjected him and

¹ HMA

his family to verbal abuse, amounting to cruelty. These allegations were denied by the respondent, who countered with allegations of mental and physical cruelty inflicted upon her by the appellant.

2.2. Upon hearing both parties, the Family Court vide its order dated 02.07.2019, dismissed the appellant's petition for divorce. Aggrieved, the appellant preferred First Appeal No. 242 of 2019 before the High Court.

2.3. The High Court, by the impugned judgment dated 28.06.2023, dismissed the appeal, holding *inter alia* that since the parties cohabited until March 2014, the allegations of cruelty made prior thereto could not be sustained, particularly in view of the fact that the second child was born on 30.11.2014.

2.4. Aggrieved by the concurrent findings of both Courts below, the appellant has approached this Court.

3. We have heard the learned counsel appearing for both parties and have carefully perused the record.

Both parties were also present appellant through video conferencing and respondent in person. They were also heard.

4. The appellant now seeks dissolution of marriage on the ground of irretrievable breakdown. It is submitted that the parties have lived separately for over eleven years and that the relationship has been irreparably damaged by prolonged hostility, deep-seated bitterness, and mutual allegations of a grave and serious nature. The marriage, it is contended, has reached a point of no return, with no possibility of reconciliation or revival.
5. It is undisputed that two children were born out of the wedlock. The appellant submits that the elder daughter, presently aged about 12 years, has been in his exclusive care and custody since her infancy. She has been residing with him since the age of six months, and all expenses relating to her education and upbringing are being borne solely by him.
6. On the other hand, the respondent states that the second child, born in November 2014 and diagnosed with cerebral palsy, was under her sole care from birth. Unfortunately, the said child passed away after a few years. The respondent submits that she single-

handedly provided care and support for the special needs of the second child during this time.

7. The appellant further submits that, despite the prolonged separation of more than a decade, the respondent has never approached any court seeking custody or visitation rights concerning the elder daughter. He thus asserts that the custody of the child has lawfully and practically remained with him. Nonetheless, he expresses that he has no objection if reasonable visitation rights are granted to the respondent at his residence.
8. In response to a query from this Court as to why she never pursued custody or visitation of her daughter during these years, the respondent stated that she was entirely occupied with the care of her second child, who required extensive attention and support due to her medical condition. Further being a government servant working as Agricultural Coordinator with the State Government of Bihar she had to discharge her official duties as well. In these circumstances, she lacked the time, resources, and emotional capacity to simultaneously pursue litigation for custody or visitation. Additionally the

respondent has not claimed any alimony from the appellant.

9. From the factual matrix before us, it is evident that the marriage has completely and irrevocably broken down. Multiple attempts at reconciliation through mediation have failed. Neither party has shown any willingness or inclination to restore the marital bond. The parties have lived separate lives for over a decade, and there is a complete absence of marital ties. In our considered view, continuing such a marriage would only perpetuate hardship and serve no useful purpose. This is a fit case for exercise of this Court's jurisdiction under Article 142 of the Constitution of India to do complete justice and dissolve the marriage on the ground of irretrievable breakdown.
10. While we note that the respondent has neither filed nor pursued any formal petition for custody or visitation of the elder daughter, we are of the view that, in the peculiar facts and circumstances of this case, she ought not to be deprived of access to her daughter. Depriving the mother of all contact would not only cause emotional harm to her but may also adversely impact the child. In the interest of justice,

equity, and the welfare of the child, we deem it appropriate to grant visitation rights to the respondent so that she may gradually rebuild a bond with her daughter. This way the daughter will also be blessed with the love, affection and guidance from her mother.

11. Accordingly, we direct that the respondent shall be entitled to visitation rights with her daughter on two days each month. The parties shall mutually fix convenient dates each month, on which the respondent may visit the child at the appellant's residence and spend quality time with her. The parties are directed to cooperate in good faith and ensure smooth implementation of this arrangement. All reasonable expenses incurred in facilitating these visits shall be borne by the appellant. It is clarified that this arrangement does not amount to a determination of custody, and both parties shall remain at liberty to approach the appropriate forum for adjudication of custody rights, if they so desire.
12. In light of the foregoing discussion, the appeal is allowed. The marriage between the appellant and the respondent stands dissolved under Article 142 of the Constitution of India on the ground of irretrievable

breakdown of marriage. The respondent shall be entitled to visitation in the terms set forth above.

13. Pending applications, if any, stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANJAY KAROL)

.....**J.**
(SANEEP MEHTA)

NEW DELHI
APRIL 22, 2025