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FA-866-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 11th OF NOVEMBER, 2025

FIRST APPEAL No. 866 of 2021

LUMESHWARI @ PINKY

Versus

RAJESH DUBEY

.....
Appearance:

Shri Eshaan Datt - Advocate for the appellant.

None for the respondent.
.....

JUDGMENT

Per. Justice Vishal Dhagat

Appellant has preferred this first appeal under Section 19 of Family Courts Act, 1984 challenging the impugned judgment and decree dated 17.11.2021 passed in RCS-HM No.68/2020 (*Rajesh Dubey Vs. Lumeshwari @ Pinki*) by Principal Judge, Family Court, Balaghat (MP). By said judgment, Family Court allowed the petition filed by the husband (respondent herein) under Section 13 of Hindu Marriage Act and suit was decreed and marriage between appellant and respondent dated 13.02.2006 was dissolved.

2. Counsel appearing for the appellant attacks the impugned judgment and decree on grounds that Family Court had committed an error of law in relying the photographs which were secondary evidence and passing judgment and decree of divorce on ground of adultery and moreover, no



certificate under Section 65-B of Evidence Act was filed. During course of arguments, counsel appearing for the appellant submitted that he is relying upon the judgment passed by Hon'ble Apex Court in the case of **Arjun Panditrao Khotkar Vs. Kailash Kushanrao Gorantyal** reported in (2020) 7 SCC 1. In said case, Apex Court has held that compliance of Section 65-B of Evidence Act, 1872 is mandatory in nature. It is further argued that appellant has also stated in her depositions that said photographs were in her mobile and have been transferred in mobile phone of her husband (respondent herein) and later on, husband has broken the mobile phone of appellant. In view of same, there is infirmity in judgment and decree and same may be set-aside.

3. Heard counsel for the appellant and perused the record.

4. Case cited by counsel appearing for appellant before us is not applicable as said case is not related with matrimonial dispute and Section 14 of Family Courts Act is not in question. As per Section 14 of Family Courts Act, a Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872. Since, Indian Evidence Act is not strictly applicable in matrimonial cases and further Court had been given authority to receive any report, statement, documents in evidence to find out the truth. Thus, this Court do not find any error in the judgment passed by Family Court by placing reliance on the said photographs.



5. On going through evidence of Lumeshwari @ Pinki (NAW-1), it appears that she has not denied that she was not there on photographs. It has only been stated that said photographs have been created by using some trick; who has created these false photographs and by what method, has not been stated, only a general statement has been made to avoid confrontation with said photographs. Appellant had stated in her deposition that photographs were transferred from her mobile to mobile of husband, then husband has broken her mobile. Breaking of mobile of appellant appears to be natural. Husband had evidence of wife's adultery on her mobile phone. He transferred said pictures in his mobile phone. No person will like her wife to be in continuation of adultery, therefore, husband (respondent herein) broke mobile phone of wife (appellant herein) in anger and to stop her communication with paramour. Photographer who developed photographs was also examined in Court.

6. Considering the evidence available on record and admission on part of respondent and also taken into consideration evidence of Shailendra Gurubele (AW-5) who had prepared the photographs, this Court do not find any merits in submissions made by counsel appearing for the appellant.

7. Consequently, this first appeal filed by wife is **dismissed**.

(VISHAL DHAGAT)
JUDGE

(B. P. SHARMA)
JUDGE