

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.259 of 2011

Sanyogita Kumari @ Radha Devi, wife of Ramesh Kumar Raushan, daughter of Sri
Sudarshan Prasad, resident of Village Lakhanpur, P.S. Gaya (M), District Gaya

.... Opp. Party.... Appellant

Versus

Ramesh Kumar Raushan, son of Sri Sambhu Sharan Singh, resident of Village +
P.O. Mandil, P.S. Paras Bigha, District Jehanabad

.... Petitioner.... Respondent

Appearance :

For the Appellant/s : Mr. Shabbir Ahmad with
Mr. Anil Kumar Saxena, Advocates

For the Respondent/s : Mr. Jitendra Prasad Singh with
Mr. Birendra Kumar Singh, Advocates

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 27-02-2015

Wife is the appellant. She has filed this Appeal
against order dated 03.03.2011 passed by the Principal Judge,

Family Court, Jehanabad in Matrimonial Case No. 38 of 2010 whereunder learned Principal Judge having considered issue nos. 3 and 4 granted judicial separation to the parties but without cost.

2. It appears the court below, while granting the relief prayed for by the husband, considered his assertion that his wife pressurized him to take her at the place of his posting, Chennai where the husband served as Sailor in Indian Navy but on account of restraint to keep the family he could not oblige the wife whereafter allegation that the husband was having illicit connection with his sister-in-law, Shashi Prabha Devi and that is why he does not want to take her to his place of posting was levelled by her.

3. From the evidence on record it is evident that sister-in-law is residing with her husband and the court below concluded on the basis of the evidence on record that the allegation of illicit connection with the sister-in-law raised by the wife is not true and amounts to cruelty and on that ground alone allowed judicial separation. It appears wife raised such allegation because the husband was not in a position to take her to his place of posting and appears to be ramification of

frustration on her part as she herself volunteered to resume matrimonial life with him. Aforesaid conduct/assertion of the wife in our opinion is indicative of the fact that the wife never meant what she was otherwise proclaiming about the illicit connection.

4. In view of the above, we set aside the order dated 03.03.2011 passed by the Principal Judge, Family Court, Jehanabad in Matrimonial Case No. 38 of 2010 but as the husband has already filed a case for divorce, it shall be open for the Principal Judge, Family Court to consider his request for divorce independently without being impressed by the finding recorded in the order impugned.

5. The maintenance amount of Rs. 4,000/- is enhanced to Rs. 10,000/- and the respondent-husband should ensure payment of enhanced amount from 1st March, 2015. The enhanced amount of compensation must be deposited in the bank account of the appellant-wife by 10th of every month.

6. During hearing, parties were present in person along with their lawyers and expressed their desire to settle the matrimonial dispute which the court below shall consider and dispose off the matter ensuring amicable

settlement between them and safeguarding interest of both the parties.

7. The Appeal stands disposed off.

(V.N. Sinha, J)

(Ahsanuddin Amanullah, J)

Anjani/-

U		T	
---	--	---	--