



**HIGH COURT OF SIKKIM AT
GANGTOK**
(Civil Appellate Jurisdiction)

**Division Bench: Hon’ble Mr. Justice Sunil Kumar Sinha, Chief Justice.
Hon’ble Mrs. Justice Meenakshi Madan Rai, Judge.**

Mat. Appeal No. 04 of 2014

APPELLANT:

Dr. Supratim Datta,
S/o Dr. S.K. Datta,
R/o Agartala, Tripura.
Presently residing at 5th Mile Tadong,
P.O. Samdur & P.S. Ranipool,
East Sikkim.

VERSUS

RESPONDENT:

Moutushi Sen,
D/o Shri Mrinal Sen,
R/o Udaipur, Tripura.
Presently residing at 5th Mile Tadong,
P.O. Samdur & P.S. Ranipool,
East Sikkim.

Appeal under Section 19(1) of the Family Courts Act, 1984.

Appearance:

Mr. A.K. Upadhyaya, Senior Advocate with Ms. Gita Bista,
Advocate for the Appellant.

Appellant Dr. Supratim Datta in person.


Dr. Doma T. Bhutia, Ms. Rupa Dhaka, Ms. Mina Bhusal and
Ms. Yangchen Dadul, Advocates for the Respondent.

Respondent Ms. Moutushi Sen in person.

J U D G M E N T
(27.08.2015)

Following Judgment of the Court was delivered by
MEENAKSHI MADAN RAI, J.;

I. Being aggrieved by the Judgment of the Learned Judge, Family
Court, Gangtok in F.C. (Civil) Case No. 62 of 2012 (Reg.



No.167/2013) dismissing his petition seeking dissolution of his marriage with the Respondent, the Appellant in this Appeal seeks to assail the said Judgment.


2. The germane facts are that the Appellant (hereinafter 'Petitioner') and the Respondent were married in February, 2006 as per Hindu rites and customs and from the wedlock they have a daughter, now aged about seven years. The Appellant avers that the Respondent after their marriage insisted that they shift to either Kolkata or Agartala from Gangtok, his workplace, despite having agreed to live here prior to their marriage. That, after about four months of their marriage, the Respondent accused him of impotency and communicated this to her parents which led the Petitioner to doubt the state of her mental health. She then went to live with his parents at Agartala, where she reiterated this accusation to the Petitioner's parents threatening to file for a divorce. After living away from the Petitioner for about one and a half years, she returned to Gangtok but attempted to ruin the cordial relations between the Petitioner and his relatives by making unfounded allegations of his sister-in-law practicing black magic to harm their daughter. She wrongfully alleged harassment by a friend of the Petitioner's brother who according to her called her constantly on the phone which turned out to be to the contrary. She also made efforts to create a rift between the Petitioner and his aged parents with whom she had indifferent relations by speaking against them and after the birth of their daughter prevented his parents from seeing the child. That, the relations between the Respondent and the parents of the Petitioner became acrimonious due to her misbehaviour added to which she threatened to commit suicide.

3. That, in the month of February, 2010 the Petitioner came to learn that the Respondent and her mother were threatening to file a case against the Petitioner and his entire family under Section 498A of the Indian Penal Code, 1860 which was however temporarily resolved between them. She also told malicious lies regarding the character of the Petitioner to his colleagues, one Sunil Kumar Panday (PW-5) and Debranjana Dutta (PW-4) by frequenting their house and informed them that she intended to file a case of Domestic Violence against him. Apart from the above, it was alleged that she created nuisance in his workplace and abused him in filthy language, while on another occasion in a fit of rage, she assaulted him with a teacup and broke household articles.

4. That, she spent unreasonably long periods of time with one Kunzang Ongmu (DW-2), who also arranged a job for her at M.G. Marg, and the Respondent shifted to the house of the DW-2 for a month on account of renovation of the flat at which time she tried to keep the Petitioner's daughter away from him.

5. That, the Petitioner used to take his child to and from school. On one Friday night, the Respondent called him informing him that their child had fever and some rashes in her private parts. On the following day, she informed him that on the child being examined by a doctor, she was diagnosed with urinary infection. But, the very next day when he went to visit the child, she restrained him from meeting her and accused him of molesting his own child after taking her to his workplace. That, this allegation traumatised the Petitioner to the extent that he could not carry out his day to day activities.


6. As a consequence of the acrimony between the Petitioner and the Respondent, on 7.10.2012 the Petitioner looked for alternative



accommodation and left his home subsequent to which the Respondent lodged a Missing Report at the Sadar Police Station and displayed his photograph in the local print and electronic media. That, on the above account, the Respondent has meted out mental cruelty to the Petitioner and if the parties were to continue living together, it would harm his academic career, reputation as well as the reputation of his family members, hence the prayer for a divorce in terms of Section 13(1)(ia) and (iii) of the Hindu Marriage Act, 1955.

7. The Respondent resisted the contentions of the Petitioner and *interalia* submitted that it is the Petitioner who is infact of sick behavior and spent time watching pornographic sites in the computer, of which **Exhibit-C** is evidence. She denied having accused him of impotence but asserted that on 27.5.2012, the Petitioner dropped their daughter home from school at about 2:30 p.m., which was late as compared to other days. After coming from school, their daughter told the maid that she was having some pain in her private part. The maid in turn, called the Respondent, who found her daughter unwell, running a fever with some redness and rashes in her private part. On enquiry from the child, it was contended that the child informed the Respondent that the Petitioner had put his finger inside her private part. A Gynaecologist examined the child on the next day.

8. It was also put forth that the Petitioner refused to give her household expenditure. She admitted to having lodged a missing report against the Petitioner and issuing missing advertisements in two local papers after he left the house on 7.10.2012. That, on 10.10.2012, she also filed an application before the Women's Commission seeking help to trace out the Petitioner. On the same day, the Sadar Police Station informed her that the Petitioner was at the Police Station. On




reaching there, although the Police persuaded him to go with her but he refused. It is her contention that the Petitioner was unhappy on account of the birth of their baby girl and was taking steps to file a divorce, hence the Petition be dismissed.

9. The Learned Judge, Family Court framed three issues for determination as follows:-

1. *Whether the Respondent has after the solemnization of her marriage with the Petitioner treated the Petitioner with cruelty?*
2. *Whether the Respondent has been incurably of unsound mind or has been suffering continuously or intermittently from mental disorder of such a count and to such an extent that the Petitioner cannot reasonably be expected to live with her?*
3. *Whether the Petitioner is entitled to a decree of divorce on the above grounds?*

10. The parties led their evidence and on appreciation of the evidence and documents on record, the Learned Judge, Family Court dismissed the Petition filed by the Petitioner recording a finding that the Petitioner had not been able to prove either Cruelty or that the Respondent was of unsound mind, hence this Appeal.

11. The grounds emphasized by the Learned Sr. Counsel Mr. A.K. Upadyaya, before this Court was that the marriage between the Appellant and the Respondent had broken down irretrievably and no purpose would be served by them living together again. It was contended that the Respondent by making allegations of impotency, lying about his character to his friends and more especially by making unproved allegation of him having molested his own child, as well as lodging a missing report against him before the Police and publishing it in the newspapers, has not only maligned him but caused him



mental agony. In such circumstances a divorce is the only option. In support of his submissions, he has placed reliance on *K. Srinivas Rao v. D.A. Deepa : (2013) 5 SCC 226*. Learned Sr. Counsel submitted that he does not press the grounds of mental unsoundness of the Respondent.

12. Per contra, Dr. Doma T. Bhutia, Learned Counsel arguing for the Respondent submitted that since the marriage between the parties was an arranged one, he was unhappy with it, to exacerbate which a baby girl was born to them, which is the main motive for the divorce. That, **Exhibit R-1**, the letter written by him clearly depicts his mentality which is inextricably connected to the child's molestation. According to her, the fact of molestation is proved by the Medical Examination of the child conducted by a Gynaecologist, who found redness in her private part. That, DW-2 had accompanied the Respondent for the Medical Checkup of her daughter and the evidence of this witness indicates that after examination, the Doctor observed that something had been inserted in the child's private part. That, witness Parinita Lama (DW-1) has also said that she along with Debranjana Dutta (PW-4) and Sunil Kumar Panday (PW-5) had seen the videography recorded by the Respondent, wherein the private part of the minor child appeared to be molested and that the child disclosed the name of the Petitioner as the assailant. The Respondent, thus relied on the evidence of DW-1 and DW-2.

13. That, the Appellant had deserted his family having left their house without informing anyone on 7.10.2012. It was also contended that **Exhibit R-1** names one " Geeta " and hence proves that the Petitioner was having an extra marital affair as borne out by the said document. In the same breath, it was, however, vociferously argued

that the Respondent desires to live with the Petitioner along with their child and should the divorce be granted to him, the Respondent and the child would not have any shelter. Hence, the Appeal be dismissed.

14. To buttress her submissions, Dr. Doma T. Bhutia, Learned Counsel has placed reliance on the following:-

- 1. *Gurbux Singh v. Harminder Kaur : (2010) 14 SCC 301,***
- 2. *Hemali Bindesh Kelaiya v. Bindesh Jayantilal Kelaiya: (2014) 3 AIR Bom R 268,***
- 3. *Mrs. Sanjana Sandip Pednekar v. Mr. Sandip Sitaram Pednekar : 2014 (3) ALLMR93 Bom,***
- 4. *Geeta Nainy @ v. B.B. Nainy : 27 (1985) DLT 292,***
- 5. *Chetan Dass v. Kamla Devi : (2001) 4 SCC 250 ,***
- 6. *Dr. N. G. Dastane v. Mrs. S. Dastane : (1975) 2 SCC 326 and***
- 7. *Vinita Saxena v. Pankaj Pandit : AIR 2005 Delhi 243***

15. The rival contentions put forth by Learned Counsel for both parties have been duly considered and the entire documents and evidence relied on by the parties have also been perused and carefully considered.

16. With regard to the allegation of Impotency, we refrain from a prolonged discussion as the parties have a child from the wedlock and no arguments were pressed in this regard by the Respondent.

17. The other allegations of the Respondent leaving the house without information to her in-laws and having acrimonious relations with them can be attributed to in the occasional wear and tear of family life, in which compromises have to be made by both sides.

18. The primary allegation of the Petitioner is of mental cruelty meted out to him by the Respondent by accusing him of molesting their child who was three years old at the relevant time.

19. Before proceeding further, it is pertinent to remark here that the matter was listed for final hearing after both the parties submitted before this Court that there was no possibility of a Compromise or even of Mutual Divorce between them.

20. While dealing with the question of Mental Cruelty, it has to be borne in mind that no human standard can be laid down for guidance as to what comprises “mental cruelty”. It could comprise of acute mental pain, agony and suffering as would make it impossible for the parties to live with each other. Whether a particular act or conduct complained of is covered by the ground of mental cruelty or not is to be decided on the merits of each individual case.

21. In *Shobha Rani vs. Madhukar Reddi (1988) 1 SCC 105*, the Hon’ble Apex Court held thus;

“ The word ‘Cruelty’ has not been defined in the Hindu Marriage Act. It has been used in Section 13(1)(i-a) of the act in the context of human conduct or behavior in relation to or in respect of matrimonial duties or obligations. It is a course of conduct of one which is adversely affecting the other. The cruelty may be mental or physical or intentional or unintentional. If it is physical it is a question of fact and degree. If it is mental, the enquiry must begin as to the nature of the cruel treatment and then as to the impact of such treatment on the mind of the spouse. The absence of intention should not make any difference in the case, if by ordinary sense in human affairs, the act complained of could otherwise be regarded as cruelty. ”

22. Later in time in *V. Bhagat v. D. Bhagat : (1994) 1 SCC 337*, it was held that

“ Mental cruelty means that conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for that party to live with the other, must be of such a nature that the parties could not reasonably be expected to live together. Regard must be had to the social

status, education level of the parties and the society they move."

23. In the case of **A. Jayachandra v. Aneel Kaur : (2005) 2 SCC 22** , the Hon'ble Apex Court observed as follows;

" Mental cruelty has to be considered in the light of the social status of parties, their education, physical and mental condition, customs and tradition. Court to draw inference and decide on the basis of the probabilities of the case having regard to the effect on the mind of the complainant spouse because of the acts or omissions of the other spouse. However, where the conduct complained of itself is bad enough and per se unlawful or illegal, the impact or injurious effect on the other spouse need not be considered. In such cases, cruelty will be established if the conduct itself is proved of admitted. To constitute cruelty, the conduct complained of should be "grave and weighty" whereupon it can be concluded that the Petitioner spouse cannot be reasonably expected to live with the other spouse, it must be something more serious than " ordinary wear and tear of married life."

24. In **Samar Ghosh v. Jaya Ghosh (2007) 4 SCC 511**, while discussing the concept of mental cruelty, the Hon'ble Apex Court observed that no uniform standard can ever be laid down for guidance, yet it is deemed appropriate to enumerate some instances of human behavior which may be relevant in dealing with cases of " mental cruelty", cautioning that the same are only illustrative and not exhaustive, i.e.

- (i) *On consideration of the complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make it possible for the parties to live with each other, could come within the broad parameters of mental cruelty;*
- (ii) *On a comprehensive appraisal of the entire matrimonial life of the parties, if it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party;*

- (iii) *Mere coldness or lack of affection cannot amount to cruelty; but frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable;*
- (iv) *Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of the other for a long time, may lead to mental cruelty;*
- (v) *A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse;*
- (vi) *Sustained unjustifiable conduct and behavior of one spouse actually affecting the physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty;*
- (vii) *Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness, causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty;*
- (viii) *The conduct must be much more than jealousy, selfishness, possessiveness which cause unhappiness and dissatisfaction and emotional upset, but may not be a ground for grant of divorce on the ground of mental cruelty;*
- (ix) *Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be adequate for grant of divorce on the ground of mental cruelty.*
- (x) *The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behavior of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty;*
- (xi) *If a husband submits himself for an operation of sterilization without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or*

knowledge of her husband, such an act of the spouse may lead to mental cruelty;

- (xii) *Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty;*
- (xiii) *Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty;*
- (xiv) *Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie the law in such cases does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feeling and emotions of the parties. In such like situations, it may lead to mental cruelty.*

25. The aforesaid principles were reiterated in the case of ***Gurbux Singh v. Harinder Kaur : AIR 2014 SC 114.***

26. The Hon'ble Apex Court in (2013) 5 SCC 226 : ***K. Srinivas Rao v. D.A. Deepa*** (relied on by the Petitioner) while enumerating the illustrative cases where inference of mental cruelty can be drawn as detailed in ***Samar Ghosh's*** case (*supra*) remarked as herein below;

" 16. Thus, to the instances illustrative of mental cruelty noted in Samar Ghosh, we could add a few more. Making unfounded indecent defamatory allegations against the spouse or his or her relatives in the pleadings, filing of complaints or issuing notices or news items which may have adverse impact on the business prospect or job of the spouse and filing repeated false complaints and cases in the court against the spouse would in the facts of the case amount to causing mental cruelty to the other spouse. "

27. The Petitioners primary grievance is of the allegation against him of molesting his child, which was unsubstantiated by any proof. It was vehemently contended that neither the child nor the maid who was allegedly the first recipient of the information from the child, nor

the Doctor who examined the child were arrayed as witnesses for the Respondent, nor was there any other independent witness furnished to lend credence to the allegation.

28. The response of Dr. Doma T. Bhutia to this argument was that if the Petitioner so desired, he could have examined the child himself to disprove the allegation.

29. Pausing here for a moment, we may revert to the Provisions of Section 103 of the Indian Evidence Act, 1872 which lays down that the Burden of Proof as to particular fact lies on the person who wishes the Court to believe in its existence, unless it is provided by any law that proof of that fact shall lie on any particular person. Illustration [(a)] of the said Section explains the position which is reproduced below:-

" [(a)]. A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission...."

30. Thus, when the Respondent asserts that the molestation had taken place, she has to furnish the best evidence in proof thereof. If she fails to do so without reason, the Court can draw an adverse inference under Section 114(g) of the Indian Evidence Act, 1872 against the Respondent. It was contended by Dr. Doma T. Bhutia that the incident occurred when the child was three years old and the evidence of the Respondent was recorded on 3.4.2014 by which time the child was already about 6 years old and in all likelihood would not have been able to recall the incident. Even if this submission was accepted as true, the non examination of the Gynaecologist who had medically examined the minor and whose evidence was undoubtedly crucial cannot be brushed aside. Although, it was submitted before

this Court that at the time of evidence the maid was away on leave, this fact does not appear to have been agitated before the Learned Family Court, besides which, they have not been even listed as witnesses therein.

31. On perusal of **Exhibit-D**, relied on by the Respondent purporting to be the Medical Report of the molestation, the same is dated " 28.4.2012", while as per evidence of the Respondent the alleged molestation took place on " 27.5.2012". There is thus a difference of approximately one month between the two dates. Nevertheless, assuming the date on **Exhibit-D** has been wrongly recorded as " 28.4.2012" instead of " 28.5.2012" the examination allegedly having been done after a day of the molestation, the Doctor in her report has not reflected that she had observed that something had been inserted in the private part of the child, contrary to the deposition of DW-2 Kunzang Ongmu Bhutia. It may be relevant to state here that under cross-examination, this witness has admitted that there is no document in the case papers to show any authenticity of molestation of the minor daughter.

32. Reverting to **Exhibit-D**, it *interalia* reads as

- " ... 1. Redness
2. 102° F
3. WT – 15 ..."

33. Apart from the said observation, the Doctor has not even specified as to on which part of the child's body the redness was detected. In such a situation, it can well be presumed that the redness was on face of the child due to the high temperature that she was running.


34. The Respondent evidently made a video clipping of the redness of the genital of the minor child, apparently as proof of the molestation by the Petitioner. She has admitted to showing the same to Parinita Lama (DW-1), Sunil Kumar Panday (PW-5) and Debranjana Dutta (PW- 4). The evidence of Parinita Lama (DW-1), however, does not establish that the molestation, if any, was indeed committed by the Petitioner, as according to her she had witnessed the videography recorded by the Respondent wherein the private part of the minor child appeared to be molested and the child disclosed the name of the Petitioner by saying “Daddy”. Merely because the child said ‘Daddy’ on the prodding of the Respondent, by no stretch of the imagination establishes that he had molested the child. As pointed out by Learned Sr. Counsel Mr. A.K. Upadhyaya, since the child had fever she could well be looking for her father due to her illness and calling out to him.

35. Neither the evidence of PW-4 or PW-5 who had viewed the video clipping shown to them by the Respondent support the allegation of molestation. PW-4 has categorically deposed that in the video the Respondent was asking her daughter as to whether she was molested by her father or not. Although, the father of the Respondent Mrinal Kanti Sen was also examined by the Respondent as DW-3, he could throw no light on the allegation of molestation and admitted that there were no documents to establish the said act. The offending video clip was not produced as evidence before the Learned Family Court.

36. No assumption on molestation can be made by the Court without proof, the standard of proof in such matters ofcourse being based on a “preponderance of probability”. At this juncture, the ruling in *Dr. N.G. Dastane v. Mrs. S. Dastane : AIR 1975 SC 1534* can usefully

be referred to, wherein it was held that “*The normal rule which governs civil proceedings is that a fact can be said to be established if it is proved by a preponderance of probabilities. This is for the reason that under the Evidence Act, Sec.3, a fact is said to be proved when the Court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.* Reference therein was made to the English case of *Blyth v. Blyth : (1996) 1 All ER 524 : 1966 AC 643 : (1966) 2 WLR 634 (HL)*, wherein the House of Lords held by a majority that so far as the grounds of divorce or the bars to divorce like connivance or condonation are concerned, the case, like any civil case, may be proved by a preponderance of probability. Reference was also made to an Australian case of *Wright v. Wright (1948)77 CLR 191 : 22 Aus LJ 534*, wherein the view taken was that the civil and not a criminal standard of persuasion applies to matrimonial causes, including issues of adultery. In the matter at hand, a scrutiny of the evidence reflects that it is bereft of any substance with regard to the allegation of molestation, thereby not even living up to the standard of “preponderance of probability”.

37. Thus, on consideration of the evidence and facts and circumstances, in our opinion the Respondent by making the vulgar and scurrilous unproved allegation against the Petitioner of molesting his own child with the intention of demeaning him not only in the eyes of the social circle in which he moves around his family, but also in his own psyche, has without a shred of doubt caused him mental agony which thereby tantamounts to mental cruelty. The FIR lodged by the Respondent before the Sadar Police Station bore not only the details of Petitioners absence from his home but also indicated that he was not providing the Respondent maintenance allowance to run her



house or to purchase her daily requirements thereby demeaning him. The Missing Reports published in the two local papers along with the FIR's definitely added to the woes of the Petitioner. It is to be borne in mind that the Petitioner is a Doctor by profession and working as an Associate Professor in Manipal, the " Hue and Cry" message flashed by the Sadar Police Station to all the Station House Officers and Incharge of Police Stations in Sikkim would have adversely affected his reputation and consequently, his mental state. Evidently, he had moved out of his house on 7.10.2012, after finding the situation in the house intolerable.

38. In conclusion, in the facts and circumstances as explained above and bearing in mind the social status of the parties, their education and background, we are of the considered opinion that the Respondent Wife has by her conduct caused mental cruelty to the Appellant Husband by making an abhorrent and unfounded allegation of molestation by the Petitioner of his own child. The allegation is grave and sufficient by itself to qualify as mental cruelty on the anvil of the principles enunciated in the various authorities referred to herein above. The facts of the case bear out that the marriage has not only irretrievably broken down but also that it would be impossible for the Petitioner to live with the Respondent.

39. We are constrained to observe that if the Respondent alleges that the Petitioner was responsible for molesting her child, it is unfathomable as to why she not only failed to report the matter to the Police but why she insists on going back to living with him, when such a situation could be fraught with the risk of the act being repeated. The Petitioner on his part is unwilling to live with the Respondent for obvious reasons and insists that even if they were


persuaded to live together, there would be no semblance of a marriage.

40. In the backdrop of the insistence of the Respondent to live with the Petitioner despite allegations made by her against him, we may refer to the decision in *Naveen Kohli v. Neelu Kohli (2006) 4 SCC 558*, where the Hon'ble Apex Court while dealing with a divorce matter in which both the appellant and the respondent had been living apart for more than ten years but the wife was not prepared to have a decree for divorce of mutual consent, observed as follows:-

" Even at this stage, the respondent does not want divorce by mutual consent. From the analysis and evaluation of the entire evidence, it is clear that the respondent has resolved to live in agony only to make life a miserable hell for the appellant as well. This type of adamant and callous attitude, in the context of the facts of this case, leaves no manner of doubt in our minds that the respondent is bent upon treating the appellant with mental cruelty. It is abundantly clear that the marriage between the parties had broken down irretrievably and there is no chance of their coming together, or living together again."

The observation appears to be apt for the facts and circumstances of the matter at hand.

41. Before closing, it would be appropriate to mention here that Section 25 of the Hindu Marriage Act, 1955 enjoins upon the Court to pass orders pertaining to Permanent Alimony and Maintenance. In this regard in Revision Petition (FAM. C.T.) No. 1 of 2014, one of us, *Sinha C.J.*, vide Order dated 23.9.2014 had while dismissing the Petition, declined to enhance the monthly maintenance allowance of Rs.20,000/- being received by the Respondent from the Petitioner under Section 125 of the Code of Criminal Procedure, 1973. It was found that the Gross Salary as per the Pay Slip of the Petitioner for the



month of February, 2013 was Rs.86,579/- and the Deduction therein were Rs.32,994/-, his Net Salary, thus, amounting to Rs.53,585/-. That, the Petitioner was required to maintain his aged parents and himself as well as the Petitioner and their daughter from the above said sum. This Court on considering the facts and circumstances of the case was of the view that the monthly maintenance of Rs.20,000/- awarded to the Petitioner and their daughter cannot be said to be either unreasonable or on the lower side, so as to call for interference in that Petition. Accordingly, in terms of the said Order, while considering this aspect pertaining to maintenance, we are of the considered view that said amount of Rs.20,000/- for the Respondent and her child does not require any interference and shall continue until further orders.

42. In the end result, in view of the discussions above, we set aside the impugned Judgment of the Family Court and direct that the marriage between the parties be dissolved in terms of the provisions of the Hindu Marriage Act, 1955.

43. Appeal succeeds.

44. Decree be drawn up accordingly.

45. Parties to bear their own costs.

46. Records of the Learned Trial Court be returned forthwith.

Sd/-
Judge
27.8.2015

Sd/-
Chief Justice
27.8.2015