



FAM No. 63 of 2017  
Smt.. Pratibha Yadav Vs. Rajkumar Yadav

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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**FAM No. 63 of 2017**

- Smt. Pratibha Yadav W/o Rajkumar Yadav, Aged About 30 Years R/o Village Bharari, P.S. Kota, District Bilaspur, Chhattisgarh .....Defendant

---- Appellant

**Versus**

- Rajkumar Yadav S/o Latelram Yadav, Aged About 32 Years R/o Village Basiya, P.S. Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh .....Plaintiff

---- Respondent

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For Appellant : Shri Hemant Gupta, Advocate

For Respondent : Shri D.C. Verma, Advocate

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**Hon'ble Shri Justice Goutam Bhaduri**  
**& Hon'ble Shri Justice Sanjay S. Agrawal**

**Judgment on Board**

**Per Goutam Bhaduri, J.**

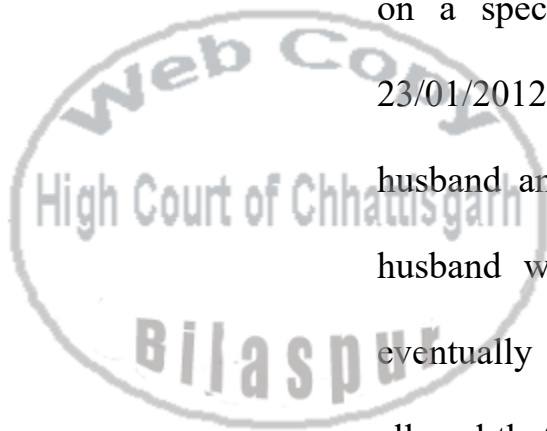
**18/04/2024**

Heard.

1. The present appeal is against the judgment and decree dated 27/02/2017 (Annexure A/1) passed by the Additional Principal Judge, Family Court, District Bilaspur, C.G. in Civil Suit No.62A/2016, whereby the application filed by the husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act, 1955') seeking divorce was allowed. The instant appeal is by the wife.



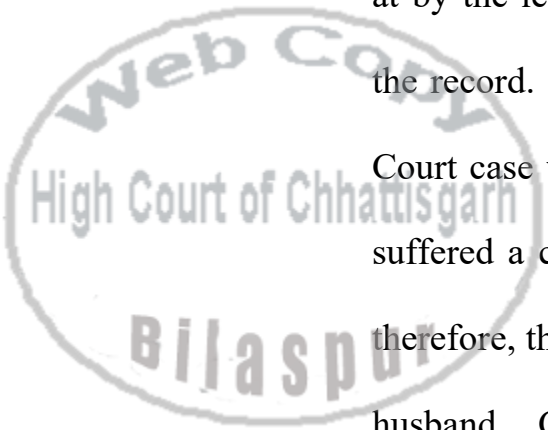
2. The brief facts of the case are that admittedly the marriage between the parties was solemnized on 23/06/2010 and out of the wedlock a child was also born. The plaintiff / husband, who filed the divorce petition alleged that after the marriage the wife pressurized the husband to stay apart from their joint family from their mother & father and also was reluctant to perform her obligations as a wife. She remained in the matrimonial house for 10-11 days and subsequently she left the matrimonial house, however, the husband somehow settled and consoled the wife and brought her back but the wife subsequently again on a specified date again left the company of the husband on 23/01/2012 and lodged a report for demand of dowry against the husband and his family members. It is also not in dispute that the husband was arrested and suffered jail sentence for 10 days and eventually they were acquitted on 18/03/2013. The husband further alleged that despite all efforts made by him, the wife refused to stay in the company of the husband, therefore, the divorce was sought for.
3. The defendant/wife contended that she was subjected to torture & cruelty for demand of dowry. Consequently, the report was lodged under Section 498 A of the IPC and the divorce petition was filed only to harass the wife, therefore, prayed for dismissal of the same.
4. The husband examined himself before the family Court and predominantly it was deposed that a report was made by the wife for demand of dowry. The husband further alleged that without any





sufficient cause, the wife left the company of the husband. Another witness Rajeshwar Yadav was also examined on behalf of the husband. On behalf of the wife, she examined herself along with one Kamla Yadav.

5. Learned Family Court after evaluating the evidence, facts & record granted the decree of divorce in favour of the husband. Hence this appeal.
6. Learned counsel for the appellant would submit that the finding arrived at by the learned Family Court is completely perverse and contrary to the record. He would further submit that at the time while the family Court case was decided, initially the husband and the family members suffered a conviction and subsequently they were acquitted in appeal, therefore, the acquittal cannot be considered favourably in favour of the husband. Consequently, the judgment and decree is liable to be set aside.
7. Learned counsel for the respondent supported the finding and would submit that on false allegations the husband and his family members had to pass through the turmoil of trial. Consequently, *ipso facto* the cruelty has been committed, therefore, the judgment is well merited which do not require interference.
8. We have heard learned counsel for the parties and perused the evidence on record.





9. Predominantly, reason which has been highlighted shows that on a report made by the wife after the marriage, the husband and the family members pass through a trial under Section 498 A of the IPC, it is not in dispute that eventually the case resulted into acquittal. The submission of the learned counsel for the appellant that the acquittal was at the appellate stage, therefore, cannot be considered favourably, we are not inclined to accept such submission for the reason that eventually the order of conviction would merge into the appellate order, therefore, the finding of the acquittal order would hold the field.

10. The Supreme Court in the matter of *Rani Narasimha Sastry Vs. Rani Suneela Rani* {(2020) 18 SCC 247} held that when the prosecution is launched by the respondent against the appellant under Section 498-A IPC, making serious allegations in which the appellant had to undergo trial which ultimately resulted in his acquittal, it would lead to a cruelty. The Supreme Court in para 13 of the said judgment has observed thus in para 13:-

13. In the present case, the prosecution is launched by the respondent against the appellant under Section 498-A of IPC making serious allegations in which the appellant had to undergo trial which ultimately resulted in his acquittal. In the prosecution under Section 498-A of IPC not only acquittal has been recorded but observations have been made that allegations of serious nature are levelled against each other. The case set up by the appellant seeking decree of divorce on the ground of cruelty has been established. With regard to proceeding initiated by respondent under Section 498-A of IPC, the High Court made following observation in paragraph 15:

15.....Merely because the respondent has sought



for maintenance or has filed a complaint against the petitioner for the offence punishable under Section 498-A IPC, they cannot be said to be valid grounds for holding that such a recourse adopted by the respondent amounts to cruelty."

11. In view of the foregoing discussion since it is not in dispute that eventually the acquittal order was passed in favour of the husband and family members, it can be considered that the wife without any reason lodged the false report which resulted into acquittal this fact cannot be sidelined. Accordingly, we are of the view that no interference is required by this Court in the impugned judgment and decree.

12. The appeal sans merit is liable to be and is hereby dismissed.

13. A decree be drawn accordingly.

Sd/-

**(Goutam Bhaduri)**

Judge

Sd/-

**(Sanjay S. Agrawal)**

Judge

**Ashu**

