

Pradeep Bhardwaj
v.
Priya

(Civil Appeal No. 9502 of 2025)

15 July 2025

[Vikram Nath* and Sandeep Mehta, JJ.]

Issue for Consideration

Issue arose as regards the correctness of the judgment passed by the High Court dismissing the matrimonial appeal filed by the appellant-husband refusing to grant divorce to the parties.

Headnotes[†]

Hindu Marriage Act, 1955 – s.13(1)(a) – Divorce – Irretrievable breakdown of marriage – Petition for dissolution of marriage on the ground of cruelty by the appellant-husband – Dismissed by the family court – Thereagainst, an appeal by the appellant on the ground of irretrievable breakdown of marriage and animosity between the parties – Dismissed by the High Court – Challenge to:

Held: Fit case to exercise power u/Art.142 and grant the relief of divorce to the parties on the ground of irretrievable breakdown of marriage – It is apparent that due to complete detachment and the prolonged estrangement, there has been an irretrievable breakdown of the marital bond, which cannot be mended by any means – Moreover, both the parties have spent the prime years of their youth entangled in this marital discord, which has persisted for more than the last fifteen years – Continuance of marriage would only fuel animosity and litigation between the parties, which runs contrary to the ethos of matrimonial harmony envisioned by the law – Also, the appellant and his family members' have been acquitted in the cruelty case filed by the respondent-wife – It cannot be expected by appellant to now continue in a marital bond with the respondent – Thus, in the interest of both the parties and the minor child that they be allowed to lead their lives independently and peacefully, free from legal battles – Decree of divorce granted and monthly maintenance enhanced to Rs.15,000/- pm in favour of respondent and the minor son – Constitution of India – Art.142. [Paras 23-27]

* Author

Pradeep Bhardwaj v. Priya**Case Law Cited**

Shilpa Sailesh v. Varun Sreenivasan [2023] 5 SCR 165 : (2023) 4 SCC 692; Amutha v. A.R. Subramaniam [2024] 12 SCR 755 : 2023 SCC OnLine SC 611 – referred to.

List of Acts

Hindu Marriage Act, 1955; Constitution of India.

List of Keywords

Dissolution of marriage; Cruelty; Irretrievable breakdown of marriage; Long period of separation; Feelings of animosity; Mental agony; False case against husband and in-laws; Prolonged and futile legal battles; Monthly maintenance; Continuance of marriage; Matrimonial harmony.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9502 of 2025

From the Judgment and Order dated 26.02.2019 of the High Court of Delhi at New Delhi in MATAP No. 54 of 2018

Appearances for Parties

Advs. for the Appellant:

Aditya Aggarwal, Ms. Pooja, Shri Bhagwan, Ms. Kumari Rashmi Rani, Ms. Rashi Jaiswal, Vipin Kumar Jai.

Adv. for the Respondent:

Ms. Nidhi.

Judgment / Order of the Supreme Court**Judgment**

Vikram Nath, J.

1. Leave granted.
2. The instant appeal has been preferred by the appellant-husband against the final judgment and order dated 26.02.2019 in MAT. APP.(F.C.) No. 54/2018 passed by the High Court of Delhi, wherein

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the High Court dismissed the matrimonial appeal preferred by the appellant herein and refused to grant divorce to the parties.

3. The brief facts leading to the instant appeal are that the marriage between the appellant-husband and respondent-wife was solemnised on 07.05.2008 according to the Hindu rites and ceremonies at Delhi. A male child was born out of the wedlock on 25.03.2009, who has remained in the care and custody of the respondent. The conflict ensued between the parties shortly after the wedding took place and the parties have been living separately since October 2009 itself.
4. The appellant preferred a divorce petition under Section 13(1)(a) of the Hindu Marriage Act, 1955¹ *vide* HMA No. 377 of 2010 before the Family Court, Tis Hazari, Delhi seeking dissolution of marriage on the ground of cruelty. The grounds seeking divorce were that the respondent used to assault and torture the appellant's ailing mother with an intention to grab her property. There were further allegations laid by the appellant upon the respondent regarding physically abusing the appellant, having an extra-marital relationship and conducting assault upon the appellant with the help of her brother.
5. The divorce petition was contested by the respondent who denied all the allegations and claimed that the appellant fails to financially provide for her and the minor child. It was also claimed by the respondent that the appellant has abandoned her and the minor child since October 2009, and that even in the period that they spent together, she faced constant neglect and abuse at the hands of the appellant and his family members.
6. The Family Court, *vide* order dated 23.11.2017, dismissed the appellant's divorce petition while holding that the case set up by him was uninspiring and unworthy of acceptance. It was held that the allegation of cruelty against the respondent as well as her wanting transfer of the ownership of the property remain unsubstantiated. Therefore, the appellant's petition seeking divorce on the ground of cruelty was rejected by the Family Court.
7. During the pendency of the divorce petition, the appellant had preferred an application under Section 24 of HMA, 1955 seeking maintenance from the respondent and the same was dismissed *vide* order dated

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12.03.2012. However, on an application preferred by the respondent under Section 24 and 26 of HMA, 1955, the appellant had been directed to pay an amount of Rs. 4,500/- per month to the respondent and their child towards their maintenance, apart from Rs. 5,000/- towards litigation expenses. The Family Court, *vide* final judgment, had held the appellant liable to pay the said maintenance to the respondent till the date of judgment in the above-mentioned terms.

8. Aggrieved by the dismissal of his divorce petition, the appellant preferred an appeal against the order dated 23.11.2017 before the High Court of Delhi.
9. The appellant strongly urged before the High Court that the limited ground on which he was seeking divorce was the irretrievable breakdown of marriage given the long period of separation between the parties and the constant feelings of animosity that the two parties harbour for each other. The respondent had resisted the grant of divorce.
10. The High Court, *vide* the impugned order dated 26.02.2019, affirmed the decision of the Family Court and held that the appellant has failed to prove cruelty and that granting a decree of divorce on the ground that cruelty stands blended with the irretrievable breakdown of marriage would be equivalent to rewarding the husband for leaving his wife and minor son. Accordingly, the High Court dismissed the appeal and imposed the cost of Rs. 10,000/- upon the respondent.
11. Aggrieved by the impugned order, the appellant is before us.
12. We have heard the learned counsel for the parties and perused the material on record.
13. It has been submitted by the appellant that the parties separated just one year after their marriage and have remained apart ever since. The parties have been living separately for more than 16 years. There has been a complete cessation of cohabitation and consortium, rendering the marriage defunct for all practical and legal purposes.
14. It has also been argued that continuing this relationship serves no purpose and would amount to a travesty of justice. That both the appellant and the respondent have already exhausted their youth, either in attempts to reconcile or in enduring the breakdown of their marital relationship.

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15. Further, it has been contended that there exists no possibility of reconciliation and the mediation also did not yield any positive result. Additionally, in the criminal proceedings initiated by the respondent under Sections 498A/406/34 of the Indian Penal Code, 1860² in FIR No. 83 of 2011, the appellant and his family members have been acquitted by the Trial Court *vide* judgment dated 05.07.2019, which demonstrates that the allegations of cruelty and dowry harassment against the appellant were false.
16. It has been submitted that in view of the above, the present case squarely falls within the scope of the principle of “irretrievable breakdown of marriage” as a valid ground for granting divorce, as has been laid down by this Court in multiple judgments including **Shilpa Sailesh v. Varun Sreenivasan**,³ where this Court has recognized its power under Article 142 of the Constitution to dissolve marriages where the matrimonial relationship has irretrievably broken down.
17. On the contrary, the respondent, while resisting the grant of divorce, has submitted that there are concurrent findings in favour of the respondent by both the Courts below and they should not be interfered with. It has been submitted that the appellant has not been able to prove the allegations of cruelty against the respondent.
18. Additionally, it has been submitted that the appellant, in a most inconsiderate and inhumane manner, has denied the paternity of the child born out of the wedlock, and this makes it apparent that the appellant is not concerned about the well-being and social status of the child and the wife. It was contended that the appellant cannot be permitted to take the benefit of his own wrong in ignoring his responsibilities as a husband and a father.
19. Lastly, it was submitted that the maintenance amount of Rs. 7,500/- which was awarded under the provision of Section 125 of the Code of Criminal Procedure, 1973⁴ must be enhanced.
20. Firstly, it must be noted that this Court had referred the parties to the Supreme Court Mediation Centre to explore the possibility of an

2 IPC

3 (2023) 4 SCC 692

4 Cr.P.C.

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amicable settlement. However, the attempts at mediation failed and the parties are back to the courtroom.

21. There are two main considerations which have weighed heavily with this Court while considering the rival contentions. Firstly, that the appellant-husband has been acquitted in the case of cruelty preferred by the respondent against him and his family members. Secondly, it is an admitted fact that the parties have been living separately since October 2009, i.e. almost for the past sixteen years.
22. It has been consistently held by this Court that the institution of marriage is rooted in dignity, mutual respect and shared companionship, and when these foundational aspects are irreparably lost, forcing a couple to remain legally bound serves no beneficial purpose. It has been emphasized by this Court in **Amutha v. A.R. Subramaniam**⁵ that the welfare and dignity of both the spouses must be prioritized, and that compelling a dead marriage to continue only perpetuates mental agony and societal burden.
23. In the present case, it is apparent that due to complete detachment and the prolonged estrangement, there has been an irretrievable breakdown of the marital bond, which cannot be mended by any means. Moreover, both the parties have spent the prime years of their youth entangled in this marital discord, which has persisted for more than the last fifteen years.
24. It is as clear as a day that in the case at hand, the continuance of marriage shall only fuel animosity and litigation between the parties, which runs contrary to the ethos of matrimonial harmony envisioned by the law. This would ring true even more in the light of appellant's and his family members' acquittal in the cruelty case preferred by the respondent. It cannot be expected by the appellant to now continue in a marital bond with the respondent, a partner who had filed and fought a false case against her husband and in-laws.
25. Therefore, we are of the belief that it is in the best interest of both the parties and their minor child that they be allowed to lead their lives independently and peacefully, free from the shadow of prolonged and futile legal battles. This Court finds it a fit case to exercise its power

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under Article 142 of the Constitution and grant the relief of divorce to the parties on the ground of irretrievable breakdown of marriage.

26. Considering that the appellant is working as a clerk in a private firm and the respondent is a homemaker who is independently taking care of their minor son aged 16 years, we find it just and equitable to enhance the monthly maintenance to Rs. 15,000/- per month in favour of the respondent and their minor son.
27. Accordingly, the appeal is allowed and the impugned order dated 26.02.2019 is set aside. The marriage between the parties stands dissolved and a decree of divorce is granted in their favour by this Court in exercise of its power under Article 142 of the Constitution of India. The appellant shall pay composite monthly maintenance of Rs. 15,000/- to the respondent and their child.
28. No order as to costs.
29. Interlocutory Application(s), if any, shall stand disposed of.
30. Registry to draw the decree accordingly.

Result of the case: Appeal allowed.

[†]*Headnotes prepared by:* Nidhi Jain