



2025 INSC 631

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 3489 OF 2025
[ARISING OUT OF SLP (CIVIL) NO. 18812 OF 2022]**

KUMARI REKHA

.... APPELLANT

VERSUS

SHAMBHU SARAN PASWAN

... RESPONDENT

JUDGMENT

DIPANKAR DATTA, J.

1. This appeal registers a challenge to the judgment and decree dated 4th June, 2020 of the High Court of Judicature at Patna¹ in Miscellaneous Appeal No. 501 of 2013. Under challenge before the High Court were (i) judgment and decree dated 4th June, 2013 of the Principal Judge, Family

Signature Not Verified
Digitally signed by
JATINDER KAUR
Date: 2024.05.06
17:01:15 IST
Reason:

¹ High Court

Court, Munger, Bihar, dismissing a petition² under Section 13 of the Hindu Marriage Act, 1955 presented by the appellant-wife and (ii) the judgment and decree dated 11th June, 2013 allowing a petition under section 9 of the said Act of the respondent-husband. The High Court dismissed the appeal and, thereby, upheld the impugned judgment and decree of the Family Court.

- 2.** The marriage between the appellant-wife and the respondent-husband was solemnized on 24th April, 1999. They were blessed with a daughter on 7th June, 2001. It is not in dispute that the parties have been living separately for quite some time. According to the appellant-wife, they have been living separately since 2008 while the respondent-husband claims that the separation is since 2012. Be that as it may, admittedly, they have been living separately for at least a little in excess of 12 (twelve) years.
- 3.** Having perused the materials on record and considering the factual situation of separation in excess of 12 (twelve) years, we had put it across to learned senior counsel for the parties as to whether any reunion by way of reconciliation is possible.
- 4.** Ms. Nivedita Nirvikar, learned senior counsel for the appellant-wife ruled out any scope for such reconciliation and insisted for a decree of divorce on the ground of irretrievable breakdown of marriage. According to her, because of the acrimony between the parties, there is nothing left of the marriage.

² Title Suit (Matrimonial) No. 1 of 2009

5. *Per contra*, Mr. Ashok Kumar Choudhary, learned senior counsel for the respondent-husband submitted, on instructions, that the respondent-husband was more than willing to have resumption of marital relationship particularly having regard to the future of the child of the parties. He contended that the petitioner-wife started showing her true colours once she obtained public employment. The respondent-husband had huge contributions for what the appellant-wife is today (she happens to be a Child Development Project Officer). Not only was she encouraged by him to prepare for securing public employment, the entire expenses for her to live a dignified, fulfilling and meaningful life were borne by him. Conveniently, she repudiated the contribution of the respondent-husband and disowned him after such employment. According to Mr. Choudhary, in light of the socio-economic conditions of the rural area from where the respondent-husband hails, it would be extremely difficult, if not impossible, to find a suitable groom for his child. Having regard to the stigma that is attached with a divorce, no respectable family would agree to give in marriage their son with the child of a divorcee. Even otherwise, it has not been demonstrated how the Family Court or the High Court erred in not granting relief to the appellant-wife. Placing reliance on several decisions of this Court, Mr. Choudhary, thus, assiduously urged that this appeal be dismissed.

6. We heard submission of Ms. Nirvikar that the child of the parties has since grown up and she is an adult, pursuing her medical course in Puducherry. According to Ms. Nirvikar, the respondent-husband never

cared for his child and all expenses for her up-bringing as well as education have been borne by the appellant-wife. That apart, she was an aspirant for public employment even before her marriage. With great deal of personal effort and without anyone's assistance she could secure public employment. Submissions to the contrary are entirely wrong.

- 7.** We heard rival contentions of the parties with patience and considering that the respondent-husband was overly concerned about his child's future, particularly about her married life, decided to interact with her on the virtual platform.
- 8.** In course of interaction, we could ascertain that the child of the parties is in the 2nd year of her MBBS course in a medical college in Puducherry. She is approaching marriageable age. We found her sufficiently mature to make her own decisions. Although the parties were not visible on the screen, their respective senior counsel did join the proceedings. Even if the parties had not joined proceedings virtually, we have no doubt that they have been told of the interaction that we had with their child.
- 9.** We need not burden this judgment with what the child of the parties answered while responding to the other questions posed to her by both of us. Suffice to record, we believe that it is a fit case for us to invoke powers conferred on us by Article 142 of the Constitution of India and to dissolve the marriage between the parties on the ground of irretrievable breakdown of marriage. We are persuaded to do so, having considered the prolonged period of separation and the multiple failed attempts at

reconciliation, which clearly indicate that there is no possibility of reunion, as well as their age (both are quinquagenarian).

- 10.** Mr. Choudhary for the respondent-husband once again urged us to not grant divorce as it would not be in the best interest of the child. We are not impressed by this submission, especially in light of the fact that the respondent-husband and his daughter have had no contact during the entire period of separation. To us, this appears to be a mere attempt to prolong the litigation and stall the inevitable.
- 11.** Keeping in mind the totality of the facts and circumstances, we are of the clear view that it would be in the best interest of both the parties, and their daughter too, to put a quietus to this protracted litigation. It is our hope that this quietus allows all members of the family to move on in life.
- 12.** Even though the respondent-husband has vehemently opposed the prayer for dissolution of marriage contending that none of the available grounds on which a Hindu marriage could be dissolved is present, the same is not a bar for us to exercise our powers under Article 142 of the Constitution; more particularly when we are satisfied that it is a case of irretrievable breakdown of marriage. In this regard, one may refer profitably to the decision of the Constitution Bench of this Court in ***Shilpa Sainesh v. Varun Sreenivasan***³.
- 13.** Accordingly, we dissolve the marriage between the parties by a decree of divorce. Decree be drawn up accordingly.

³ 2023 SCC OnLine SC 544

14. Since the appellant-wife has no claim for alimony, no order is made in that behalf.

15. The appeal, accordingly, stands allowed.

.....J.
[DIPANKAR DATTA]

.....J.
[MANMOHAN]

NEW DELHI;
May 06, 2025.