

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 9005 OF 2012

Mitul Chatterjee (Barman) .. Appellant(s)

Versus

Rajesh Burman .. Respondent(s)

O R D E R

This Appeal has been heard on several days. On the last date of hearing, it had become palpably evident that there is no likelihood of the marriage between the parties being saved, and therefore, the spouses should consider agreeing to the marriage being dissolved. Learned Counsel for the parties inform us that the spouses have realized the futility of continued litigation and that they would pray that this Appeal be disposed of as settled.

In this case the Trial Court had granted Divorce on the ground of the husband having treated the wife with cruelty. The divorce was, therefore, granted under Section 27(1)(d) of the Special Marriage Act, 1954. On an Appeal being preferred, the High Court concurred with the view of the Trial Court, namely, that the wife had

been treated with cruelty, as envisaged in Section 27(1) (d) of the said Act. However, we are not in agreement with the Impugned Judgment inasmuch as it converts the decree of Divorce into one of Judicial Separation. Counsel for the parties submits that the decree passed by the Trial Court may be affirmed by setting aside the Impugned Order without going further into the matter.

It also appears that criminal proceedings in respect of F.I.R. dated 26th June, 2001 under Section 498A, 325, 406, 506 read with Section 34 of the IPC is pending against the husband-respondent. Since the parties have come to an amicable settlement vis-a-vis the marriage being put asunder, we think it appropriate that we should exercise jurisdiction under Article 142 of the Constitution. The appellant-wife who is present in Court prays that the criminal proceedings may be quashed. In addition, she confirms that she gives up all claims for maintenance. The appellant-wife, however, submits that the respondent-husband had given an impression to her that some other proceedings (pertaining to alleged perjury committed by the appellant) had been initiated against her. The learned Counsel for the respondent-husband confirms that no such proceedings against the appellant-wife by or on behalf of the

respondent-husband are pending today for alleged perjury or for any other grievance.

In view of the settlement between the parties, the Impugned Judgment is set aside and that of the Trial Court is restored. The marriage between the parties is dissolved under Section 27(1) (d) of the Special Marriage Act, 1954. By exercising power under Article 142 of the Constitution the criminal proceedings arising out of F.I.R. being C.C.No.17/P/2001 pending before the Metropolitan Magistrate Railway Mobile Court, Andheri Mumbai titled as *State of Maharashtra vs. Rajesh Burmann* are quashed. Neither of the parties shall claim maintenance against each other.

The Appeal stands allowed in these terms. The parties shall bear their respective costs.

.....J.
[VIKRAMAJIT SEN]

.....J.
[PRAFULLA C. PANT]

NEW DELHI,
NOVEMBER 25, 2014.

ITEM NO.11

COURT NO.11

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.9005/2012

MITUL CHATTERJEE (BARMAN)

Appellant(s)

VERSUS

RAJESH BURMAN

Respondent(s)

(with appln. (s) for leave to file additional documents and interim relief and office report)

Date : 25/11/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE VIKRAMAJIT SEN
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. Jaideep Gupta, Sr.Adv.
 Ms. Madhavi Divan, Adv.
 Mr. Utpal Majumdar, Adv.
 Mr. Sanjay Bose, Adv.
 Mr. Manan Verma, Adv.
 Mr. Tarun Kumar Banerjee, Adv.
 Ms. Jaya Khanna, Adv.
 Ms. Ranjeeta Rohtagi, Adv.

For Respondent(s) Mr. Bijan Kumar Ghosh, Adv.
 Mr. Sujoy Mondal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

The parties shall bear their respective costs.

(USHA BHARDWAJ)
AR-CUM-PS

(SAROJ SAINI)
COURT MASTER

Signed order is placed on the file.