



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SMT. JUSTICE ANURADHA SHUKLA

ON THE 16th OF OCTOBER, 2025

FIRST APPEAL No. 340 of 2024

RUCHIT KULSEJA

Versus

SNEHA WADHWANI KULSEJA

.....
Appearance:

Shri Deepak Panjwani - Advocate for appellant through video conferencing.

Shri Zaheer Khan Pathan - Advocate for respondent through video conferencing.
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JUDGMENT

Per. Justice Vishal Dhagat

Appellant has preferred this appeal under Section 19 of Family Courts Act, 1984 challenging judgment and decree dated 18.01.2024 passed by Third Additional Principal Judge, Family Court, Jabalpur in RCSA No. 180/2022, by which petition filed for grant of divorce under Section 27 of Special Marriage Act, 1954 was dismissed.

2. Brief facts of the case are that appellant and respondent got their marriage registered on 10.06.2019 in Pune. After getting marriage certificate, parties also performed marriage on 10.11.2019 in accordance with Hindu rites and rituals. Trial Court framed singular issue, whether respondent



treated appellant with cruelty which calls for dissolution of marriage between them. Trial Court did not answer said issue but dismissed petition for divorce on ground that appellant want divorce for marriage dated 10.06.2019, however, no relief of dissolution of marriage dated 10.11.2019 was prayed, which was performed according to Hindu rites and rituals.

3. Counsel appearing for appellant submitted that trial Court had committed an error of law in dismissing suit on aforesaid ground. If trial Court gave divorce in respect of marriage dated 10.06.2019, then customary marriage dated 10.11.2019 performed between parties as per Hindu rites and rituals will also come to an end and no separate decree for dissolution of marriage dated 10.11.2019 is required. Appeal on basis of evidence available on record be allowed and decree of divorce be granted.

4. Counsel appearing for respondent opposed the said prayer. It is submitted that no specific finding regarding cruelty is given by trial Court. If this Court comes to a conclusion that if divorce is granted of marriage dated 10.06.2019, then marriage done according to Hindu rites and rituals on 10.11.2019 will also come to an end. Therefore, matter is to be remanded back to trial Court to give findings on the issue framed.

5. Heard the counsel for appellant as well as counsel for respondent.

6. As per Section 15 of Special Marriage Act, 1954, any marriage celebrated before or after commencement of Special Marriage Act, 1954 except marriages under Special Marriage Act, 1872, may be registered under this Chapter by Marriage Officer in respect of territories over which such officer exercises its jurisdiction. Word used in Section 15 of Special



Marriage Act, 1954 is marriage celebrated. It does not refer to religion of any person who has entered into marriage relationship. Therefore, any marriage celebrated by rites and rituals according to belief of a party can be registered under Special Marriage Act, 1954. Exception is carved out in respect of registration of marriage under Special Marriage Act, 1872.

7. Act No. III of 1872 was enacted by East India Company to provide a form of marriage for persons, who do not profess Christian, Jewish, Hindu, Muslim, Parsi, Buddhist, Sikh or Jain religion, and to legalize their marriage, the validity of which is doubtful. Said Act was repealed by Special Marriage Act, 1954. But marriages which are recognized by Act No. III of 1872 were saved by Section 51 of Special Marriage Act, 1954. Marriage in this case is not performed under Act No. III of 1872, therefore, no exception is carved out.

8. Any marriage which is celebrated by persons before or after Special Marriage Act, 1954 is enacted can be registered under Special Marriage Act and after registration, certificate of marriage is to be issued. If marriage is registered under the Act, application for divorce under Special Marriage Act, 1954 is to be filed under Section 27 and divorce to parties can be granted. If divorce is taken under Section 27 of Special Marriage Act, 1954, then there is no need for seeking relief to dissolve marriage celebrated according to rites and rituals or customs of parties. As marriages performed are registered under the Act or marriages can also be done under the procedure of the Act. Trial Court has committed an error of law in dismissing petition on this count.



9. In view of same, judgment and decree passed by trial dated 18.01.2024 is set aside. Case is remanded back before trial Court to record its findings and to give judgment on issues framed by it in RCSA No. 180/2022.

10. Appeal is **disposed off**.

(VISHAL DHAGAT)
JUDGE

(ANURADHA SHUKLA)
JUDGE

vkt