

IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4385 OF 2017
[@ SPECIAL LEAVE PETITION (C) NO. 35153 OF 2016]

G N SUBRAMANYA UPADHYAYA

Appellant(s)

VERSUS

SOUMYA M. HEGDE

Respondent(s)

WITH

CRIMINAL APPEAL NO. 1626 OF 2015

WITH

CRIMINAL APPEAL NO. 1624 OF 2015

J U D G M E N T

KURIAN, J.

Crl. Appeal No. 1626 OF 2015 and
Crl. Appeal No. 1624 OF 2015

1. The learned counsel for the appellant, on instruction, seeks leave to withdraw these appeals. Permission is granted. The appeals are, accordingly, dismissed as withdrawn.

Civil Appeal No. 4385 of 2017 [@ SLP (C) No. 35153 of 2016]

1. Leave granted.

2. The appellant is before this Court, aggrieved by the order passed by the High Court, whereby the

decree of divorce granted by the Family Court at the instance of the respondent-wife has been affirmed by the High Court. It is seen that the High Court has taken note of the fact that the marriage between the parties has irretrievably broken down. However, it may be noted that merely because of the irretrievable break down of the marriage, divorce cannot be granted.

3. Be that as it may, we also find that there are certain findings regarding the alleged cruelty.

4. The parties are present before this Court today. We are informed that both of them have been living separately for the last more than seven years. They have no children. They have lived together barely for three months. The parties also had the assistance of Smt.Sunita Rao, learned counsel. The appellant-husband is a Cardiologist and the respondent-wife is an Ayurvedic Doctor. Both the appellant and the respondent submit that they have decided to purchase peace and part as friends and hence, their marriage may be dissolved by a decree of divorce by mutual consent.

5. Having regard to the background of the litigation between the parties, having regard to the long separation and having regard to the submission that both of them have taken a mature and sober decision out of their own free will to part, we are of the view that this is a case to invoke our jurisdiction under Article 142 of the Constitution of India.

6. The parties have also filed an application in that regard, which is signed by both the parties in Court today. The same is taken on record.

7. Therefore, the appeal is disposed of as follows :-

- i) The Judgment of the Family Court, as affirmed by the High Court, is set aside.
- ii) The marriage between the appellant and the respondent is dissolved by way of a decree of divorce by mutual consent.
- iii) The appellant shall pay an amount of Rs.5,00,000/- (Rupees Five Lakhs) towards full and final settlement of the entire monetary claims of the respondent, including arrears of maintenance and alimony, within six months from today.
- iv) The parties agree that they shall not initiate any litigation against each other, either civil or

criminal, without leave of this Court.

v) The parties shall exchange whatever jewellery they have of each other. To the best of memory of the appellant, he has one necklace of the respondent, which is kept in his house in Karnataka and as far as the respondent is concerned, to the best of her memory, there is only 'Mangalsutra' given by husband. Be that as it may, in case the parties find that there are any more items of jewellery or other valuables of each other, they will return the same to the other side within two weeks from today.

With the above observations and directions, the appeal is disposed of.

.....J.

[KURIAN JOSEPH]

.....J.

[R. BANUMATHI]

New Delhi;
March 22, 2017.

JUDGMENT