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FA-101-2017

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

&

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 28th OF OCTOBER, 2025

FIRST APPEAL No. 101 of 2017

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Appearance:

Smt. P. L. Shrivastava - Advocate for the appellant.

Shri Kaustubh Shankaer Jha - Advocate for the respondent No.1.
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ORDER

Per. Justice B. P. Sharma

This First Appeal under Section 19 of the Family Courts Act arises out of a common judgment and decree of divorce passed by the Family Court, Jabalpur on 06.01.2017 in Civil Suit No. 273A/2013 (suit originally instituted at Bangalore and later on transferred to Jabalpur), whereby trial court decreed the suit filed by the respondent No.1/husband, (hereinafter “the respondent”) for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955 on the grounds of cruelty and adultery and dismissed C.S. No.156A/2013 filed by the appellant/wife for restitution of conjugal rights.

2. The brief facts of the case are that the marriage between the appellant/wife and the respondent/husband was solemnized on 20.11.2009



according to Hindu rites and ritual at Jabalpur and after marriage appellant went to reside at her husband's house, and out of the wedlock a son, was born on 24.11.2010. The parties started residing separately from 08.04.2012, and thereafter the respondent filed a civil suit for divorce on 13.06.2012 at Bengaluru on the ground of cruelty and adultery with respondent No.2 under Sections 13(1)(ia) and 13(1)(i) of the Hindu Marriage Act, 1955, which was subsequently transferred to Jabalpur and registered as Civil Suit No. 273A/2013. During the pendency of the civil suit for divorce, the appellant initiated multiple proceedings including an FIR under Section 498A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, application under Section 125 of the Code of Criminal Procedure, an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, and proceedings under the Protection of Women from Domestic Violence Act, 2005.

3. By judgment and decree dated 06.01.2017 passed in Civil Suit No. 273A/2013, the Family Court dissolved the marriage between the parties on the grounds of cruelty and adultery under Section 13(1)(ia) and 13(1)(i) of the Hindu Marriage Act, awarded maintenance of Rs. 5,000/- per month for the minor son and granted a sum of Rs. 3,00,000/- as stridhan to the appellant-wife. Being aggrieved by the same, appellant has preferred the present first appeal challenging the findings on adultery and cruelty, as well as the quantum of stridhan.

4. The appellant submits that the Family Court has erred in law and on facts in holding that the charge of adultery stands proved on the basis of



electronic evidence derived from keylogger software installed by the respondent on the computer system. It is urged that the chats and emails relied upon were “forwarded messages” capable of being edited, that the respondent admittedly installed keylogger software in January 2012 and had full control over the device and passwords, and therefore the integrity, authenticity and reliability of the alleged electronic record/evidence stand fundamentally compromised, rendering the requirements of Section 65-B of the Evidence Act unsatisfied. The appellant further contends that the Family Court has misread her evidence and that of her father, has incorrectly inferred admissions which were never made, and has drawn adverse inferences on the basis of photographs and chats which, even if taken at face value, do not depict or establish sexual relations of appellant with respondent No.2/

5. It is also contended that the trial court has improperly relied on material and evidence led in other proceedings, which, according to the appellant, is impermissible in the present matrimonial suit without due proof in accordance with law. The appellant asserts that her allegations regarding dowry related taunts and ill-treatment have been discarded on untenable grounds, and that findings in paragraphs 56, 58 to 71, 76, 81 to 84 and 87 of the impugned judgment are contrary to the record and the settled principles governing matrimonial disputes and electronic evidence. With respect to monetary relief, the appellant urges that the maintenance of Rs. 5,000/- per month for the son is grossly inadequate having regard to his school fees, coaching, conveyance and sports expenses, and that stridhan lumpsum



of Rs. 3,00,000/- is wholly disproportionate, while her father had given sufficient dowry/amount. Hence, maintenance amount for the minor son is also disproportionate to the standard of living of the parties and to the respondent's earning capacity as a software engineer allegedly earning around Rs. 24,00,000/- per annum. Enhancement of maintenance for the child to Rs. 35,000/- per month and of permanent alimony to Rs. 50,00,000/- is, therefore, prayed for, along with a direction for return of the appellant's original educational documents and mark sheets.

6. The respondent in support of the decree of divorce submits that the Family Court has rightly recorded a categorical finding on adultery on the strength of duly proved electronic evidence satisfying the mandate of Section 65-B of the Evidence Act. It is contended that the keylogger report, mobile call records, emails, chats, selfies and other electronic material were exhibited with the requisite certificate and affidavit under Section 65-B, and that the appellant never raised any objection to the mode of proof during trial and is, therefore, estopped from challenging admissibility at the appellate stage as held by the Hon'ble Supreme Court in the case of **Sonu Vs. State of Haryana (2017) 8 SCC 570**.

7. On the issue of cruelty, the respondent submits that the appellant subjected him to grave mental cruelty by lodging multiple false and frivolous criminal and quasi-criminal proceedings under Section 498-A of IPC, the Dowry Prohibition Act, the Domestic Violence Act, and Section 125 Cr.P.C., all of which have ended in dismissal, as noted by the Family Court. It is argued that such misuse of criminal law, coupled with unsubstantiated



imputations against the character of the respondent's mother, clearly constitutes cruelty warranting dissolution of marriage, and that the Family Court has correctly relied on the conduct of the appellant before various forums as noticed in the impugned judgment.

8. As regards maintenance and permanent alimony, the respondent contends that the appellant is well-qualified, employed, and earning handsomely, as recorded in an order dated 31.05.2025 passed under the Domestic Violence Act noting that she is working on the post of Director with an annual income of about Rs. 50 lakhs, and that she deliberately withheld proof of her income despite directions. On this premise, it is urged that the award of Rs. 5,000/- per month for the minor child is just and proper and requires no enhancement, and that in view of the appellant's proven adultery and substantial earning capacity, she is not entitled to any permanent alimony. As regards stridhan, there is no ground to provide beyond the sum of Rs. 3,00,000/- as already awarded by the Family Court, which is just and proper.

9. The appellant's contentions include specific complaints that (a) keylogger software allegedly installed by the respondent fatally polluted and created the evidence; (b) the respondent had control of the computer/devices and therefore could have fabricated chats and images; (c) the cyber-expert was the respondent's friend and thus his testimony unreliable; (d) some of the trial court's references purportedly relied upon, which are not available (e) there was lack of independent corroboration and absence of direct



testimony establishing sexual intercourse; and (f) various alleged procedural shortcomings or semantic misreadings during cross-examination. These contentions are articulated in the memorandum of appeal.

10. There are substantially two core questions and several attendant issues for adjudication of this appeal. The first core question is whether the electronic material upon which the trial court relied was properly admissible and, if admissible, whether it was of such demonstrable authenticity and integrity that a finding of adultery could legitimately be based upon it? The second core question is whether the trial court's overall evaluation of the evidence which are the oral testimony, documentary exhibits, circumstances and inferences, is such that this Court should interfere on appellate scrutiny by either reversing the findings or setting aside the decree?

11. Appellant/wife stated in chief examination that that the electronic material was tainted because it was captured or fabricated by installing a keylogger on the relevant computer and because the respondent, being a software professional, had the technical competence and access necessary to manipulate files, create spurious chats and photos or otherwise vitiate the integrity of the electronic record. These allegations raise legitimate concerns about both legality and reliability.

12. However, such objection cannot be sustained in proceedings before the Family Court. The Family Court is not rigidly bound by the strict rules of admissibility prescribed under the Indian Evidence Act. Section 14 of the Family Courts Act, 1984 expressly empowers the Family Court to receive



and act upon any report, statement, document, information or material which, in its opinion, may assist it in effectively adjudicating the dispute between the parties, irrespective of whether such material would otherwise be admissible under the Evidence Act. The said provision reads thus:

“14. Application of Indian Evidence Act, 1872.— A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.”

Therefore, the photographs, chats and other materials produced by the respondent/husband could not have been disregarded on the basis of a technical objection as these are obtained by Keylogger, which was installed in order to create evidence by the respondent, and the Trial Court has rightly assessed their evidentiary value on the touchstone of relevance and probative worth. Apart from that no objection was taken when these were adduced in evidence before trial court. It is essential that the objections should have been taken at the trial before the document is marked as an exhibit and admitted to the record. The mode or method of proof is procedural and objections, if not taken at the trial court, cannot be permitted at the appellate stage. If the objections to the mode of proof are permitted to be taken at the appellate stage by a party, the other side does not have an opportunity rectifying the deficiencies.

13. Objection of the appellant that the evidence of the expert is not credible because he is friend of respondent, but this ground of the appellant is not accepted because relationship alone, without more such as



demonstrable falsehood, concealment of material, or failure of the expert. The trial court examined the expert's report and considered his testimony and thereafter recorded reasons for placing weight on the expert opinion as corroborative of the electronic records and other oral evidence that fact based is not shown to be perverse.

14. It is now well settled that in matrimonial disputes, the standard of proof is preponderance of probabilities and not proof beyond reasonable doubt. The Hon'ble Supreme Court in "**Dr N.G. Dastane vs. Mrs S. Dastane, (1975) 2 SCC 326**, in para 24 has held that matrimonial cases are civil in nature and the Court must assess whether a reasonable person, in the position of the spouse, would believe the circumstances to be true. Applying this standard, the photographs, email chats and other materials clearly indicate a degree of intimacy inconsistent with the sanctity of the marital bond.

15. In allegations relating to an extra-marital relationship, it is well recognised that direct evidence is seldom available; adultery is often proved by circumstantial evidence as such acts by their very nature occur in privacy and are concealed from public view. In family matters ground of adultery is generally proved by way of circumstantial evidence, surrounding conduct, opportunity and the cumulative effect of the facts on record, rather than by direct proof. The difficulty in obtaining clear or documentary evidence in such matters cannot be ignored by the Court while assessing the credibility of the spouse raising the allegation. Therefore, where the overall circumstances, conduct, frequency of interaction, deep involvement and



opportunity are established on record, and such circumstances collectively give rise to a reasonable inference of an intimate relationship, the allegation cannot be discarded merely for want of direct or conclusive proof.

16. The respondent/husband stated that in November 2011, the appellant asked him to send an email to her company. When he opened her email inbox, he found that she had been engaging in inappropriate chats with respondent No. 2, [REDACTED] and that both had an illicit relationship. In January 2012, the respondent installed image-capturing software, a keylogger, to monitor the appellant/wife's behaviour. He further stated that, upon perusal of the keylogger, it was found that on 12.11.2011, the appellant/wife had sent nude photographs (Ex. P-59, 60 & 61) of herself to respondent No. 2 via the email address [REDACTED] *gmail.com*. The appellant allegedly engaged in obscene conversations (Ex. P-57), exchanged nude photographs. These acts were carried out by the appellant during the respondent/husband's absence, while he was at work. According to him, these actions clearly demonstrate an illicit physical relationship. In order to conceal the same, the appellant deleted the electronic records from the laptop, but they remained stored in the keylogger.

17. He further stated that the appellant admitted having physical relations with his friend, respondent No. 2, which according to him, is supported by the information recovered from the laptop and the mobile phone found in the appellant/wife's possession. The said devices allegedly contained objectionable photographs, obscene online real-time chats between the appellant and respondent No. 2, and other incriminating



material. He also stated that the appellant sent her nude photographs and SMS messages to [REDACTED]'s email ID, [REDACTED] *gmail.com*, on 20.11.2011, 19.03.2011, 22.03.2011 and 25.03.2011, even when she was in Jabalpur. On 20.05.2011, she allegedly sent her objectionable photographs to [REDACTED] from her mobile phone. He further stated that she had been involved in an extramarital relationship with [REDACTED], and that they often had obscene conversations through email, online chat, SMS, etc. The wife also allegedly took nude photographs of herself on her mobile phone and sent them to respondent No. 2 using the laptop provided by her husband's office.

18. On behalf of the appellant, it has been argued that respondent [REDACTED] is a close friend of her husband and, in connivance with him, has levelled false allegations of adultery against her. On the one hand, the appellant stated in her testimony that [REDACTED] is a close friend of her husband; on the other hand, she claimed that she did not know [REDACTED]. In such circumstances, it becomes necessary to analyze the conduct and the evidence given by the appellant. She admitted in her cross-examination (paragraph 42) that in January 2010, she and her husband [REDACTED] went to Bombay from Bangalore along with [REDACTED]. She further admitted in paragraph 116 that [REDACTED] used to visit their house in Bangalore and that sometimes she and her husband might have gone out with [REDACTED]. The appellant also stated that whenever [REDACTED] visited their house, they used to eat and drink together. She admitted in paragraph 118 that during her testimony in the domestic violence case, she stated that she had chatted with [REDACTED] only in the form of "Hi, Hello."



19. While recording her statement before the trial court, the CD {Articles 1 & 2(selfies)} and the hard disk were played on the screen in the courtroom. When the appellant's attention was drawn to the screen and she was questioned extensively by the respondent/husband's counsel, she denied sending or receiving the emails displayed. She even refused to view the emails, photos, and chats. Initially, she claimed that she did not have any personal email ID. Later, in her cross-examination, she admitted that she did have an email ID. In her examination-in-chief, she alleged that her husband never took her to any tourist place; however, in her cross-examination, she admitted that he had taken her to many places, including Manasgudi, Amarkantak, Krishnagiri, Mysore, etc., the photographs of which are on record as Ex. P/65 to P/70. Initially, she stated that her husband did not spend any money during the birth of their child; later, she admitted that her delivery expenses were borne by her husband.

20. In the present case, the appellant deposed that she neither knew nor had she ever chatted with him, whereas in her testimony in the domestic violence case, she admitted that she knew and had chatted with him. She also admitted that in Article 3A/1, she is seen chatting with on Facebook. Based on the available evidence, it appears that despite being well acquainted with , spending considerable time with him, and engaging in video chats, emails, and SMS conversations with him, the appellant denied knowing him before the trial court, thereby affecting her credibility as a witness.



21. Considering the totality of the appellant's testimony and the respondent statement that he found the appellant and together on the same bed in the morning at their home in Bangalore, the matter becomes extremely significant. He further stated that the appellant admitted that had arrived around five in the morning. Despite the fact that is her husband's close friend, she did not inform her husband of his early-morning arrival. Her failure to inform her husband and the fact that she was found on the bed with in another room, if this statement is assessed in the context of other evidence like chats, emails, sms and nude photographs, which is sufficient to establish the illicit nature of the relationship between the appellant/wife and respondent No. 2. He also made a written complaint (Ex. P/63) at P.S. Gorakhpur, District Jabalpur, and sought an investigation.

22. Considering the totality of the facts and evidence especially the nude photographs, emails, chats, SMS messages, and other circumstances it is not expected in Indian society that a wife would take nude photographs of herself, send them to another man electronically, request him to show his private parts during a video call, and herself view his private parts in return. No valid reason has been shown to disbelieve the evidence produced by the respondent/husband regarding adultery, nor is there any reason to reject the expert report dated 14.08.2013 (Ex. PR/6) prepared by and his testimony. In such circumstances, the only conclusion that can be drawn is that after marriage, the appellant/wife maintained an illicit relationship with respondent No. 2, disregarding the basic principles of the institution of



marriage. There is sufficient documentary as well as oral evidence to hold that the appellant was in an adulterous relationship with respondent No. 2,

23. As far as cruelty is concerned, it is undisputed fact between the appellant and respondent/husband that since 08.04.2012 they are living separately and after that when respondent/husband filed a petition for divorce, the appellant/wife filed a petition under Section 125 of Cr.P.C. on 06.02.2013 and another petition was filed on 15.02.2013 at Jabalpur, under the Protection of Woman from Domestic Violence Act. Another complaint was made by the appellant which was marked as (Ex.D/38) before Women's Police Station Jabalpur and criminal case was registered against the husband and his parents under Section 498-A/134 of IPC and Section 3/4 of the Dowry Prohibition Act. All these cases were filed when the respondent filed a divorce petition in the family court and wife was residing with her parents at Jabalpur. Apart from this the appellant made allegations against her husband's mother of having an illicit relationship with her neighbour

and in this regard also, she submitted an amendment application before the family Court, Jabalpur.

24. From the analysis of the facts and aforesaid evidences it appears that the appellant/wife has given evidence in the family Court by concealing the facts and making false statements. Considering the totality of facts and evidence placed on record we unequivocally find that the appellant/wife had filed a baseless criminal complaint and made false allegations against the



respondent's mother. False allegations and criminal complaints are sufficient to constitute matrimonial cruelty.

25. As regards permanent alimony, the trial court held that since the appellant/wife was living in adultery, she is not entitled to permanent alimony. This Court finds that the trial court has rightly rejected her claim. With regard to stridhan, this Court finds that the trial court has correctly assessed its value at Rs. 3 lakhs. In paragraph 121 of the judgment, the trial court has categorically recorded a finding that the evidence is not clear as to which items mentioned as stridhan were actually received by the appellant at the time of marriage, which items she retained, and which items remained with her in-laws. In such circumstances, the trial court, relying on the judgments of this Court and taking into consideration the parties' standard of living, social status, and the conditions reflected in the photographs of the marriage ceremonies, concluded that it would be appropriate to award a lump sum amount of Rs. 3 lakhs to the appellant/wife from the respondent in lieu of her stridhan.

26. The impugned judgment contains a reasoned analysis linking the evidence to the conclusions. This Court, on a careful reading of the record, finds no material misapprehension of evidence nor any perversity that would merit appellate intervention. The matters urged by the appellant allegations of fabrication through keylogger installation, the friend-status of the cyber-expert, certain semantic points in cross-examination and the absence of direct testimony of intercourse are matters properly treated as affecting weight; this Court considered them and discarded in the absence of demonstrable error.



27. For the reasons stated above, this Court finds no merit in the appeal. The common impugned judgment and decree dated 06.01.2017 passed by the Family Court, Jabalpur in Civil Suit No. 273A/2013 and CS No. 156A/2013 is affirmed. The decree dissolving the marriage between the parties on the grounds of cruelty and adultery is hereby maintained. Incidental directions recorded by the trial court, insofar as they relate to maintenance for the minor child, rejection for restitution of conjugal rights or other incidental reliefs, shall remain in force.

28. The appeal is accordingly dismissed. Parties to bear their own costs.

(VISHAL DHAGAT)
JUDGE

(B. P. SHARMA)
JUDGE

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