



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2908 of 2019

**With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2019
In R/FIRST APPEAL NO. 2908 of 2019**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE SANGEETA K. VISHEN Sd/-

and

HONOURABLE MS. JUSTICE NISHA M. THAKORE Sd/-

Approved for Reporting	Yes	No
	✓	

NILESHBHAI JONBHAI MEKWAN
Versus
PRITIBEN D/O ARNESHTBHAI CHRISTIAN

Appearance:

MR AS ASTHAVADI(3698) for the Appellant(s) No. 1
MR A A ZABUAWALA(6823) for the Defendant(s) No. 1
ROMESH C NIVEN(9064) for the Defendant(s) No. 1

CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 11/02/2026
ORAL JUDGMENT
(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)

1. Captioned appeal is directed against the judgment dated 11.04.2019 passed by the Family Court in Family Suit No. 42 of 2018 and Criminal Misc. Application No. 82 of 2018 (hereinafter referred to as the "impugned judgment"), whereby the Family Suit No. 42 of 2018 is allowed and the marriage solemnized on 08.11.2007 is dissolved. So far as the Criminal Misc. Application No. 82 of 2018 filed by the respondent is concerned, the same is rejected, against which no appeal is preferred.



2. Mr A. S. Asthavadi, learned advocate, while inviting the attention of this Court to the cross-examination of the respondent-wife, submitted that a reference is made of interaction which took place before marriage, when both the parties were trying to know about their nature. In the question posed, it is categorically stated by the respondent that she is short tempered and gets emotional. It is submitted that considering the sensitive nature of the respondent, it is difficult to believe the allegations levelled by her against the appellant-husband. Therefore, the respondent herself is responsible for the separation. While inviting the attention of this Court to the plaint, it is submitted that in paragraph 3, allegations are made against the appellant about the demands, which is not supported by any evidence. On the other hand, the evidence produced would suggest that the respondent, instead of staying with the husband, was determined to stay separately.

2.1 It is further submitted that initially the respondent was serving at Nadiad; however, she secured a job in Vadilal Sarabhai Hospital, Ahmedabad where, initially, she was appointed on contractual basis and was subsequently confirmed and possibly because of the fact that the respondent was earning more as compared to the appellant, she desired for separation inasmuch as, the complaint is filed in the year 2018. Normally the confirmation of contractual employment is upon completion of five years of service. As she joined in 2013, five years would get over in 2018 and hence, upon her confirmation in the year 2018, she filed the complaint. The incident was only an excuse, inasmuch as, the alleged incident took place on 07.03.2018, and thereafter another on 10.03.2018 and on 13.03.2018, the application was filed. Therefore, barring two incidents; first on 07.03.2018 and another on 10.03.2018, there are no other incidents. Except the alleged incident that took place at the railway station, there are no other incidents, notified by her which



fact, is accepted by her in her own deposition. Only on the basis of one remote incident, the divorce is allowed. It is submitted that marriage is a sacred institution and as far as possible the parties to the marriage should put all the endeavors to save the institution.

2.2 It is submitted that the witness of the respondent - Mr Swetal Joseph Christian was examined at Exh. 35; however, considering the nature of his deposition, it is untrustworthy for, it is stated that he was at the distance of 80 feet. It is difficult to believe that a person could recognize any person at such a distance. Besides, it is claimed that he has an acquaintance with the brother of the appellant and had never met the appellant. Despite which, he has recognized the appellant. When it is his own case that he has never met or seen the appellant; how he could have with surety suggested that it was the appellant who subjected the respondent to physical abuse. Therefore, the evidence of Mr. Swetal Joseph Christian may not be considered.

2.3 It is submitted that in connection with CCTV footage, evidence at Exhs.37, 45, and 48 would be relevant. Exh.37 the evidence of Mr Manibhai Sukhabhai Solanki, a Head Constable who had received the CCTV footage in a Compact Disc/Digital Versatile Disc (hereinafter referred to as "the disc") on 12.04.2018, in his cross-examination he has stated that he has no information from where the disc was provided but claims to have received it from the Railway Protection Force Officer, and was handed over to the respondent. He has also admitted that the voice in the disc was inaudible. Besides, he is not aware if there is any alteration in the disc. Furthermore, the evidence at Exh. 45 of Mr. B. B. Vanjara, Police Sub-Inspector, he admits that though the disc was given to the respondent, he has not verified the contents thereof. He also states that he has no authority or power to provide any information



under the Right to Information Act, 2005 (hereinafter referred to as “the Act of 2005”). Evidence at Exh. 48 is of Mr. Hiteshbhai Narendrabhai Patel who was working with Nimit Electronics. It is his version that he has prepared the pen drive, which was given to the railway officer on his request. The disc was never given by him. He has denied that a certificate was issued under Section 65B of the Indian Evidence Act, 1872 (hereinafter referred to as “the Act of 1872”) certifying the authenticity of the said pen drive or the contents in the disc. Therefore, the disc was not converted by the said officer, and he had only handed over the pen drive which was subsequently converted into a disc; however, it is unclear as to who has converted the pen drive into the disc. In the absence of any clarity, the said evidence could not have been accepted by the learned Judge. It is submitted that the CCTV footage cannot be considered as primary evidence. Therefore, considering the evidence at Exh. 37 of Manibhai Sukhabhai Solanki; Exh.45 of Police Sub-Inspector, and Exh. 48 of Hiteshbhai Narendrabhai Patel, it is not proved that the incident took place on the railway station.

2.4 It is next submitted that section 65B of the Act of 1872 provides for admissibility of electronic records, and it starts with a non-obstante clause. Reliance is placed on the judgment in the case of *Anvar P.V vs P.K.Basheer & Ors* reported in (2014) 10 SCC 473, wherein it has been held and observed that evidence under Section 65B is admissible provided it fulfills the conditions as indicated therein, *inter alia*, the certificate identifying the electronic record containing the statement. The certificate must describe the manner in which the record was produced. It also provides that the certificate must furnish the particulars of the device involved in the production of that record. Therefore, it is only upon the satisfaction of the parameters as indicated in paragraph 5, that the disc would have been accepted. It is noted that the Act of 1872 does not



contemplate the proof of an electronic record by oral evidence unless requirements under Section 65B of the Act of 1872 are complied with. It is therefore, submitted that the satisfaction of the requirements under Section 65B of the Act of 1872 is a *sine qua non*, and in the absence thereof, the evidence could not have been considered. Therefore, the sole ground on which the electronic evidence is accepted, is erroneous. It is also submitted that, except the disc, there is no other evidence much less any primary evidence, produced. It is submitted that though heavy reliance is placed on the incident which took place on 07.03.2018, on the railway station, the learned Judge has simply accepted the disc without further discussing in detail the contents contained therein. It is, therefore, urged to allow the appeal.

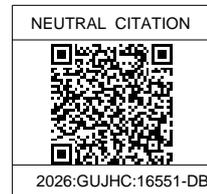
3. On the other hand, Mr. A. A. Zabuawala, learned advocate appearing for the respondent, has vehemently opposed the appeal. At the outset, it is submitted that the respondent is not pressing for alimony; however, she is desirous of receiving her stridhan, which was given to her at the time of her marriage in the year 2007. In the year 2008, a son was born; initially, he was staying with the appellant; but, subsequently, it is she who is taking care of him. It is also submitted that she was appointed in the V. S. Hospital, Ahmedabad, initially on a contractual basis, but was confirmed subsequently upon completion of three years, i.e. in the year 2016. It is submitted that the respondent was subjected to harassment physically, verbally, and emotionally by the appellant. Having left with no option, the respondent started living separately from 19.11.2017. Many a times, incidents of altercations took place; however, the parents convinced the respondent and only with a view to preserving her marital life, the respondent returned back with a hope that the appellant would improve his behaviour. As there was no improvement shown, both the parties started living



separately, since the year 2017.

3.1 It is submitted that the appellant was aware of the office timings of the respondent, and hence on 07.03.2018, when the respondent was waiting for the train at the railway station, the appellant came and created a ruckus. Besides, the respondent was physically assaulted by the appellant, that was witnessed by not one but many. The respondent on 24.10.2018 reported about the incident to the Nadiad Railway Police Station, clearly stating about threats extended to her when she was waiting for train on 07.03.2018 and further required that she should withdraw the Family Suit. It is further submitted that similar episode was repeated on 10.03.2018, while she was returning back from her job during night hours. The appellant entered the compartment and misbehaved with the respondent. It is submitted that the harassment was of such a nature, that the respondent even thought of committing suicide; however, friends stopped her from doing so. Even the leader of her community telephonically made her understand not to take such a harsh step. Accepting the solace from the friends and the leader, she settled herself and did not take any further step. As the harassment had reached a point of no return, she preferred an application seeking divorce.

3.2 It is submitted that the cross-examination of the appellant is self-explanatory as it suggests that there is no denial or rebuttal about the incidents. It is a categorical stand taken by the respondent that during the subsistence of the marriage she had gone to her parents' house five to six times and the reason, was physical abuse by the appellant. The parents intervened and considering the interest and welfare of her child, she had returned back. Even in her evidence, she has made a reference of a settlement which took place and the assurance extended by the



appellant of not repeating such behavior. It is submitted that there was a suggestion put to her, to which she has clearly stated about the past incidents and she being subjected to cruelty.

3.3 It is next submitted that the evidence of the CCTV footage itself was sufficient to prove cruelty. The respondent had made an application seeking for the CCTV footage, which application was received by the officer of the railway, who in turn had requested the Nimit Electronics Company to provide the footage, which was provided. Even the employee of the Nimit Electronics was examined and he in his evidence has clearly stated that if the disc is made from the pen drive, tampering is not possible, considering the fact that the contents provided in the pen drive are in a file format. He has stated that upon watching the disc he can very well say as to whether there is any tampering done. Accordingly, after watching the disc played in the laptop, he has affirmatively said that there is no alteration in the footage, which was provided through the pen drive. Clearly the source has remained intact and has not been tampered with. It is submitted that the disc was provided to the appellant as well, however, it was not challenged and instead, the explanation offered is that he tried to play the disc, but it did not run. In the absence of any challenge, now it would be impermissible for the appellant to raise such contentions.

3.4 It is further submitted that the contention that the disc is a secondary evidence is misplaced for, section 14 of the Family Courts Act, 1984 (hereinafter referred to as, "the Act of 1984") gives the power to the Family Court to receive as evidence, any report, statement, or documents, etc., so as to facilitate the Family Court to effectually deal with the dispute in question. Exception is culled out as regards relevancy or the admissibility of the evidence under the Act of 1872. Therefore, section 14 gives wide powers to the Family



Court. The Court, therefore, has used the discretion and accepted as evidence the contents provided in the disc format and believed it. It is submitted that section 20 of the Act of 1984, gives an overriding effect over other Acts and the Act of 1984 being a special Act, it will have a precedence over the general Acts. Hence, it cannot be said that the learned Judge has committed any error.

4. Heard the learned advocates appearing for the respective parties. Perused and considered the documents available on record including the Records & Proceedings.

5. The brief facts that can be culled out from the record, are thus: It is not in dispute that the marriage between the appellant and the respondent took place on 08.11.2007. Subsequently, on 27.06.2008, a son was born. The respondent initially was working at Nadiad and subsequently, in the year 2013, she got the job in the V. S. Hospital, Ahmedabad and was confirmed after three years i.e. on 04.11.2016. Owing to the irreconcilable differences, the respondent shifted to her parents' place in the year 2017. It appears that the parties tried to resolve the differences and as a result, the appellant agreed for a good behavior and assurances were extended in writing that the respondent will not be subjected to harassment. It appears that the respondent was not very much satisfied and hence, she did not return. The grievance raised by the respondent is the cruelty extended by the appellant-husband.

6. The trigger point of filing application seeking divorce was the incident which took place on 07.03.2018 on the platform no.2 of the railway station. When the respondent was going to her job, that the appellant approached on the railway station and created a ruckus. Not only that, he also assaulted the respondent. Similar such incident took place on 10.03.2018, while the respondent was



returning from her job during the night hours. It is the case of the respondent that the appellant entered into the coach and started extending verbal threats. Being exasperated, the respondent also thought of committing suicide. It is her case that she was stopped by her friends and was also asked to speak to the leader of the community. Since she was explained about the consequences, she did not take any further steps. It is the case of the respondent that she was subjected to extreme sufferance and as a result of which, the respondent preferred an application under the provisions of section 15 of the Indian Divorce Act, 1869 (hereinafter referred to as "the Act of 1869").

7. Parties have filed their respective pleadings, affidavits and evidence, apropos which, the learned Judge, has formulated issues in vernacular and the relevant issues with free english translation are reproduced hereinbelow:

- i. Whether the original applicant-respondent proves that her marriage was solemnized with the original opponent -appellant.*
- ii. Whether the original applicant-respondent proves that she was subjected to cruelty by the original opponent-appellant and his family members.*
- iii. Whether the original opponent-appellant proves that the original applicant-respondent, is short tempered and hence, was not fulfilling her matrimonial obligations as a wife and has deserted the original opponent-appellant.*

8. As regards issue no.1 there is no dispute considering the fact that the marriage of the appellant and the respondent was solemnized in the year 2007. Centre to the issue is respondent-wife being subjected to cruelty. The learned Judge, while accepting the request of the respondent-wife seeking dissolution of the marriage, dissolved the marriage solemnized on 08.11.2007 of the appellant



and the respondent. On behalf of the respondent-wife, over and above her evidence, witnesses were examined at Exhs.35, 37, 45 and 48. Documentary evidence was produced, namely:

- (i) the complaint dated 07.03.2018 – Exh.39;
- (ii) the memo extending medical treatment – Exh.40;
- (iii) the injury certificate – Exh.41;
- (iv) the letter addressed by the Police Sub-Inspector, Nadiad Railway Police Station to the Railway Protection Force seeking CCTV footage – Exh.42;
- (v) the letter endorsing the receipt of the CCTV footage to the applicant – Exh.43;
- (vi) the office copy of the complaint filed with the Executive Magistrate – Exh.46; and
- (vii) the service report of the receipt of the electronics and equipment dated 12.03.2018 - Exh.49.

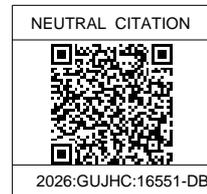
While on behalf of the appellant-husband, except his evidence – Exh.52, neither any independent witnesses were examined nor documentary evidence in support of the incident dated 07.03.2018 or the allegations of the respondent-wife. Documentary evidence which were placed on the record were the expenses incurred by him towards education, treatment, etc. for his son and the joining letter – Exh.31 of the respondent.

9. At this stage, reference of the complaint filed by the respondent-wife, is worth referring to. Apropos the incident which took place around 12:25 p.m. on railway platform no.2, the respondent-wife approached the Nadiad Railway Police Station. Reference is made of her travelling for job to Ahmedabad from Nadiad and the incident of 07.03.2018, around 12:15 p.m. It is stated by her that when she was waiting for the train, keeping



vengeance, the appellant approached the respondent and she was abused verbally and assaulted physically. After the intervention of the passers-by, the appellant was stopped. Exh.40 is the memo of the treatment taken by her apropos which, the Medical Officer, Civil Hospital, Nadiad has issued a certificate, certifying that the respondent had visited the hospital at around 3 p.m. on 07.03.2018. Further certifying that the respondent had sustained injuries and as per the history, the respondent was assaulted by the husband. As per the certificate, it appears that the respondent has sustained blunt simple injuries as indicated therein.

10. Adverting to the oral evidence, it is to be noted that one Mr Swetal Joseph Christian was examined at Exh.35. He in his deposition, has narrated the incident of 07.03.2018. According to him, he has witnessed the whole episode and claims to be at the distance of 80 feet and upon the altercation taking place, he went there. He has also stated in his deposition that he could recognize the appellant he being the brother of his friend but at the same time, he has stated that there was no occasion for him to meet the appellant or rather never seen him. He has stated that 4 to 5 persons were available on the platform nos.1 and 2 but was not sure as to the passers-by were belonging to which caste. It is contended by the learned advocate that the deposition of the witness Mr Swetal Joseph Christian – Exh. 35 cannot be believed inasmuch as, he claims to be the friend of the elder brother of the appellant but, he also agrees that he has never seen the appellant and hence, when he has not seen him, there arises no question of him recognizing the appellant. The said contention cannot be accepted as the fact remains that the incident of physical and verbal abuse which took place on the platform no.2 on 07.03.2018 is not dislodged.



11. Witness Mr Manibhai Sukhabhai Solanki is examined at Exh.37, a Head Constable working with Nadiad Police Station. The aspect of receipt of the application dated 08.03.2018 of the respondent seeking disc of the CCTV footage is confirmed. It is also stated that the said request was under the provisions of the Act of 2005. He has also stated that the disc of the CCTV footage, was procured and was provided on 12.04.2018, which was handed over to the respondent. He has confirmed in his deposition that the letter was addressed to the Railway Protection Force apropos which, in turn has provided the CCTV footage in the form of the disc. He has also confirmed filing of the complaint by the respondent and it was registered as non-cognizable offence. In the question posed as to whether he has verified the contents of the disc, response given was that he has seen in the computer; however, he has also agreed that he has no information as to from where the disc is proved but confirms positively, that the disc was received from the office of the Railway Protection Force. It is further stated that the voice in the disc is not audible and it is difficult for him to say that as to whether any alteration is made in the disc.

12. Further evidence is recorded of Mr. B. B. Vanjara, Police Sub-Inspector – Exh.45. The aspect of addressing the letter is confirmed, further stating that the incident has taken place at the railway station. It being under the Railway Protection Force, letter was written. Office copy of the letter was produced at Exh.42. It is clarified that disc of the CCTV footage was sent to them. In his cross-examination, he has confirmed that on 07.03.2018, a complaint was filed by the respondent and was a non-cognizable. He has also agreed and stated positively that the CCTV footage was provided to the respondent and it is not accompanied by any certificate. Pertinently, even as per this evidence taking place of the incident dated 07.03.2018, stands confirmed.



13. Adverting to the evidence of Mr Hiteshbhai Narendrabhai Patel – Exh.48, working with the Nimit Electronics – it throws sufficient light about the incident and the contents of the CCTV footage. Apart from other aspects, he has confirmed that the contents of the CCTV footage were provided in the pen drive to the railway officer. He also confirms about providing the service report – Exh.49 indicating the name of the customer. According to his evidence, backup was provided of camera no.10 of platform no.2 of 07.03.2018 for the duration of 12:10 p.m. to 12:30 p.m. duly signed by the engineer and the customer as well. He has categorically stated that as the pen drive contains the file format and the disc having prepared from the pen drive, it cannot be tampered. He had also expressed the desire to watch the disc which was shown and he has confirmed that there is no change or alteration in the contents provided in the pen drive and transferred in the disc. Therefore, from his evidence, it is evident that the contents provided in the disc are intact which aspect, has remained unchallenged.

14. The documentary evidence Exh.42 is a letter addressed by the Police Sub-Inspector, Nadiad Railway Police Station to the Railway Protection Force Officer, *inter alia*, requesting for the CCTV footage of 07.03.2018 of the incident. The letter further records about the request made by the respondent under the provisions of the Act of 2005 seeking disc of the CCTV footage. Exh.43 is the letter addressed by the Police Sub-Inspector, Nadiad Railway Police Station handing over the disc to the respondent received from the office of the Railway Protection Force pursuant to the request dated 10.03.2018.

15. The appellant has also filed his affidavit of examination-in-chief – Exh.9. He has denied the averments and allegations made. Bare perusal of the response and the written submissions filed



suggest that there is not a semblance of denial of the incident dated 07.03.2018, barring, generally denying that he has never physically abused the respondent. The contents of the paragraph nos.1 to 7 are formal denial. The appellant then has stated about the meeting, the marriage etc. Allegations are made against the respondent that she has not fulfilled her matrimonial obligations and is in the habit of frequently leaving the house and staying with her parents. It is further alleged that as the appellant is receiving less salary as compared to the salary of the respondent, that has caused the differences. It is stated that in the year 2010 and 2015, the respondent had left her matrimonial house. The stand taken by the appellant is that the respondent was brought back; however, she continued with her adamant attitude. Also she was not cooking food and not taking care of his son. In his cross-examination – Exh.52, the appellant has not denied of the incident of 07.03.2018. It is interesting to note that in his cross-examination the appellant has accepted of receipt of the disc; however, he has taken a stand that he could not see the contents as the disc could not run. He also states that he has discussed about the disc with his lawyer. In a question put to him whether he is seen in the disc, the response given is that he has not watched the disc; however, he agrees and accepts that while discussing with the lawyer he has stated that he is not seen in the disc. In fact, the stand is taken that he is wrongly involved in the incident but agrees that he has not filed any complaint for his involvement in connection with the said incident.

16. Clearly, the appellant agrees the receipt of the disc but offers an excuse that the disc could not run; however, in his discussion he has admitted about sharing the information with the lawyer about his non-appearance in the disc. There is contradiction in the statement of the appellant for, he states that the disc could not run and in the same breath states about the discussion with the lawyer



and his non-appearance in the disc. Assuming without concluding that the disc did not run, then the first thing the appellant was expected to have done is to ask for another disc or at least take a specific stand about his non-involvement in the said incident; however, the appellant was satisfied with the fact of the disc could not open. Perceptibly, the appellant did not raise any objection either to the production of the disc or its admissibility.

17. The learned Judge, considering the oral evidence Exhs.37, 42, 45 and 48 in juxtaposition, noted that the marriage span of the parties is 11 years with one son born in the year 2008. The learned Judge has also observed that the appellant has subjected the respondent with mental, sexual and physical harassment; however, the respondent has all throughout tried to save the marriage. The learned Judge, has also taken note of the incident of 07.03.2018 on the platform no.2 which according to the learned Judge is substantiated by the railway CCTV footage. The learned Judge has rightly not believed that merely because the salary of the respondent was higher as compared to the salary of the appellant, that she had filed the application. The learned Judge, therefore, cannot be said to have committed any error in observing that the respondent was subjected to cruelty by the appellant-husband.

18. Contention is raised that the disc is not a primary evidence but the secondary evidence and it is further contended that the disc which was provided does not satisfy the requirements of section 65B of the Act of 1872 and in the absence of the certificate, the said evidence could not have been taken on record. For deciding this contention, the provisions of section 14 of the Act of 1984 need to be examined. Section 14 empowers the family court to receive as evidence any report, statement, etc. if in its opinion the evidence would assist it to effectually deal with the dispute, irrespective of it



being relevant or admissible under the Act of 1872. To appreciate the above referred contention, it would be apt to refer to the Statement of Objects and Reasons of the Act of 1984. Notably, the desire was expressed by various stakeholders for setting up of the family court for settlement of family disputes, laying emphasis on conciliation and for achieving socially desirable results with a special focus on eliminating adherence to rigid rules of procedure and evidence. The Law Commission in its 59th Report, stressed that in dealing with the disputes concerning the family; the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings. To cater to the needs of the stakeholders and in the public interest, family courts have been established with a view to promoting conciliation and securing the speedy settlement of disputes relating to marriage and family affairs as well as for matters connected therewith. The Act of 1984 seeks to achieve numerous objects including “*simplifying the rules of evidence and procedure so as to enable a family court to deal effectively with a dispute.*” In this backdrop, one needs to consider the provisions of section 14 and it 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.”

19. Bare reading of section 14 suggest of giving wide powers to family court to receive evidence which in its opinion would assist it to deal effectually with the dispute irrespective of the same being relevant or admissible in evidence under the Act of 1872. Therefore, the family court is empowered to receive evidence and the rigours of the strict proof of evidence as provided in the Act of 1872 would not apply to the proceedings before the family court. The Act of



1984 undoubtedly is a special legislation with the provisions of section 20, giving an overriding effect to the Act of 1984 over other laws and for ready reference, it is reproduced hereinbelow:

“20. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

20. It clearly provides supremacy of the Act of 1984 over the other laws. Considering, in juxtaposition, the object and the scheme of the Act; the provisions, coupled with the role of the family court in deciding the disputes, the proceedings before the family court cannot be put at par with the proceedings before the regular civil court. Broad powers are conferred upon the family court to adjudicate the family matters as per the provisions of the Act of 1984.

21. It is also pertinent to note that the CCTV footage is maintained by the statutory authorities and derived from the public place i.e. the railway station and therefore, it is difficult to fathom that the CCTV footage provided in the pen drive or in turn, in the disc, is susceptible to tampering by any private individuals. Furthermore, the witness who was examined at Exh.48 working with Nimit Electronics has confirmed the authenticity of the said CCTV footage. Besides, it is not in dispute that the incident had not taken place at the behest of the appellant-husband. Thus, the objection raised about the disc to be discarded as evidence is unsustainable for, all throughout the appellant has not raised any objection against its production, let alone the contents. Therefore, on facts as well as on law to say that disc is not admissible in evidence cannot be accepted, more particularly, in view of enabling provision of section 14 of the Act of 1984. Considering the evidence on record and the



reasons assigned in the impugned judgment, this Court is of the opinion that no error is committed by the learned Judge in allowing the application filed by the respondent-wife, warranting interference by this Court. The appeal therefore, fails and is hereby dismissed. No order as to costs.

22. Records & Proceedings to be remitted to the Court below forthwith.

23. In view of the disposal of the captioned first appeal, civil application would not survive and is disposed of accordingly. Rule is discharged in civil application. No order as to costs.

Sd/-
(SANGEETA K. VISHEN,J)

Sd/-
(NISHA M. THAKORE,J)

RAVI P. PATEL