

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 3109 of 2024
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2024
In R/FIRST APPEAL NO. 3109 of 2024
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R/FIRST APPEAL NO. 2399 of 2024
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FOR APPROVAL AND SIGNATURE:**HONOURABLE MS. JUSTICE SANGEETA K. VISHEN****and****HONOURABLE MS. JUSTICE NISHA M. THAKORE**

Approved for Reporting

Yes

No

Versus

Appearance:

MR PUNAM G GADHVI(3724) for the Appellant(s) No. 1

MS KRUSHANGI R JOSHI(11717) for the Appellant(s) No. 1

MR BHUNESH C RUPERA(3896) for the Defendant(s) No. 1

CORAM: HONOURABLE MS. JUSTICE SANGEETA K. VISHEN
and

HONOURABLE MS. JUSTICE NISHA M. THAKORE**Date : 27/11/2025****COMMON ORAL JUDGMENT****(PER : HONOURABLE MS. JUSTICE SANGEETA K. VISHEN)**

First Appeal no.3109 of 2024 is directed against the judgment dated
08.05.2024 (hereinafter referred to as "the impugned judgment") passed by

the learned Judge, Family Court in Family Suit no.921 of 2013. The appellant is aggrieved by the impugned judgment, as the learned Judge has ordered dissolution of marriage solemnised between the appellant and the respondent.

2. First Appeal no.2399 of 2024 is filed by the husband, being aggrieved by paragraph 3 of the operative portion of the impugned judgment, as further direction is issued to him to pay to the wife a sum at the rate of Rs.8,000/- per month from the date of the filing of the petition, i.e. 09.07.2013 to 08.07.2020 and from 09.07.2020 onwards, the same is to be paid at the rate of Rs.10,000/- per month towards the permanent maintenance/alimony. Parties are referred to as per their status in First Appeal no.3109 of 2024.

3. The captioned appeals are arising out of the impugned judgment, and hence, with the consent of learned advocates appearing for the respective parties, both the appeals, are being disposed of by this common judgment.

4. Mr. Punam G. Gadhvi, learned advocate for the appellant-wife in First Appeal no.3109 of 2024, submitted that the issue revolves around the appellant following a particular religion; however, the learned Judge, did not frame the issue as regards the differences owing to practicing a particular religion. It ought to have been formulated, but the learned Judge chose not to do so. While the issues formulated were as to whether respondent-husband proves that the appellant has treated him with cruelty. Another issue, was regarding dissolution of the marriage. It is further submitted that the appellant, is not contesting the dissolution of the marriage, but the concern is of the alimony granted by the learned Judge. It is submitted that despite there being a direction by the Family Court, since last 18

months, the maintenance is not paid.

3.1 While inviting the attention of this Court to the impugned judgment, Mr. Gadhvi, learned advocate, submitted that case was put forth by the respondent-husband that the appellant is following particular religion and not consuming onion and garlic, and as a result altercations were taking place between them. Besides, the appellant-wife was behaving in a fanatic and a rigid manner. It is submitted that whatever was stated by the respondent – husband, has been accepted by the Family Court. It is further submitted that the order passed, is not sustainable in the eye of law, inasmuch as, sufficient opportunity was not offered to the appellant-wife to lead evidence, and therefore, the impugned judgment granting divorce, deserves to be quashed and set aside.

3.2 It is submitted that the respondent-husband, is earning well; however, the Family Court, without considering the income and the status of the respondent-husband, has granted a meager amount of Rs.8,000/- per month for the period from 09.07.2013 to 08.07.2020, and from 09.07.2020 onwards, the amount, has been enhanced to Rs.10,000/- per month. It is submitted that it is difficult to maintain herself and the alimony may be enhanced, accordingly.

3.3 Mr. Punam G. Gadhvi, learned advocate, has conceded to the fact that the appellant is not challenging the aspect of divorce, as it is acceptable to the appellant. The grievance is regarding the quantum of alimony only.

4. Mr. Bhunesh C. Rupera, learned advocate has supported the judgment insofar as, it grants divorce; however, limited challenge is to the direction and the manner in which the alimony is awarded. In view

of the limited challenge and the development which took place during the pendency and in the interregnum, Mr. Bhunesh C. Rupera, learned advocate, does not press the First Appeal no.2399 of 2024.

5. Heard the learned advocates appearing for the respective parties. Mr. Bhunesh C. Rupera, learned advocate has submitted all the relevant documents in the form of paper-book in First Appeal no.2399 of 2024, which has been perused and considered by this Court.

6. This Court, on 29.09.2025, has passed the following order:

“Mr Bhunesh C. Rupera, learned advocate for the applicant – husband submitted that the Court has ordered maintenance of Rs.8,000/- for the period from 09.07.2013 to 08.07.2020 and thereafter, from 09.07.2020 onwards at the rate of Rs.10,000/-. It is submitted that the applicant – husband is ready and willing to pay a lumpsum amount of compensation towards permanent alimony instead of maintenance of Rs.10,000/- every month. It is urged that if the respondent – wife considers the proposal, then the whole matter can be put an end to.

2. Mr Punam G. Gadhvi, learned advocate for the respondent – wife requests for some time so as to take the sense of the respondent – wife.

3. At his request, list the matter on 07.10.2025.”

8. It may be noted that so far as the First Appeal no.2399 of 2024 is concerned, Mr. Bhunesh C. Rupera, learned advocate, states that the captioned appeal is directed against the impugned judgment dated 08.05.2024 qua the direction contained in paragraph 3 of the operative portion. It is submitted that instead of monthly amount to be paid to the respondent, the appellant is ready and willing to offer a lump sum amount to the wife as permanent alimony. The offer was shared with the appellant-wife through her advocate, and the offer is not accepted.

9. As the offer was not acceptable, Mr. Bhunesh C. Rupera, learned advocate, considering the limited challenge as recorded hereinabove, does not press the First Appeal no.2399 of 2024. In view of the above, no further deliberation or discussion is necessitated. First Appeal no.2399 of 2024, is disposed of as not pressed.

10. While advertng to the First Appeal no.3109 of 2024, discernibly, the marriage of the appellant and the respondent was solemnized on 02.03.2002, according to hindu rites and rituals. As per the case of the respondent, the appellant was following Swaminarayan religion strictly and was attending the meetings in temple on Sundays and Tuesdays of every week.

11. It is the case of the respondent that his mother used to cook separately the food for the appellant without onion and garlic, while the food for other family members, was being cooked with onion and garlic. Following of the religion and consumption of onion and garlic was the trigger point of the differences between the parties. The respondent has made further assertions that owing to the rigidity exhibited by the appellant - wife, applications were filed before the Gujarat State Legal Services Authority. Besides, owing to the pressure exerted by the appellant, the respondent-husband, was compelled to file an application with the Mahila Police Station, Bhadra, stating about the torture and harassment by the appellant-wife.

12. It is also the case of the respondent-husband that several attempts were put for reconciliation. On all the occasions, the appellant-wife, has extended assurance, but not adhered to. In the year 2007, memorandum of understanding was executed between the parties and the appellant wife had assured that she will improve her behaviour. Not adhering to the understanding arrived at, the

appellant-wife left her matrimonial house with her child.

13. The respondent-husband had filed an application under the provisions of Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as "the Act of 1955"), on the ground that he has been subjected to cruelty and the wife has deserted him. The appellant-wife contested the petition by filing the written statement. The averments made in the petition, were objected to. It has been stated that the respondent-husband has failed to discharge his matrimonial obligations as husband and has voluntarily deserted her. It is also the stand taken by the appellant-wife that the factum of the wife following the religion, was known to him and also the fact that she is not consuming onion and garlic. It is only after knowing each other well, the marriage was solemnized. From the initial days of the marriage, the respondent-husband was inclined to get the divorce, and hence, all the allegations levelled are only with a view to getting out of the matrimonial obligation. It is stated that the respondent-husband is the owner of a factory and is earning around Rs. 60,000/- to Rs.70,000/- per month and it is incorrect on his part to contend that he is serving in the factory of his father.

14. The learned Judge, after considering the plaint and the written statement, formulated the following issues and were answered, accordingly:

Sr. no.	Issues	Answer
(1)	Whether the petitioner proves that after solemnization of the marriage, the respondent treated the petitioner with cruelty as alleged in the petition?	In the affirmative.
(2)	Whether the petitioner is entitled to get a decree of dissolution of marriage on the above ground?	In the affirmative.
(3)	What order and decree?	As per final order.

15. After hearing both the parties and considering the oral and documentary evidence, the learned Judge, has answered the issue no.1 in affirmative, as according to him, the respondent-husband had proved that he was subjected to cruelty by the appellant-wife. Accepting it, the marriage solemnized, was dissolved. Mr Punam G. Gadhvi, learned advocate, has fairly conceded before this Court that the appellant-wife is not contesting the divorce as she is not aggrieved by the dissolution of the marriage. In view of the above statement, the incidental submission as regards non-formulation of the issue, would not survive. Therefore, this Court, need not delve further into the issue of divorce.

16. The only issue, then falls for consideration of this Court is whether the alimony awarded by the Family Court is reasonable and proper ? The issue is dealt with hereinbelow.

17. Application Exh.20 was preferred by the appellant-wife, *inter alia*, requesting for permanent maintenance of Rs.20,000/- per month as per the provisions of Section 25 of the Act of 1955. Moreover, application, Exh.92 was preferred by the appellant-wife, praying for separate residence, on the ground that the respondent-husband resides in a joint family and is the only son. It is also averred that the father of the petitioner is running a fabrication factory, wherein the petitioner is serving as a partner and earns Rs.80,000/- to Rs.1,00,000/- per month. It is also alleged that the appellant-wife is not having any independent income to maintain herself and she be allowed maintenance of Rs.20,000/-.

18. The application was resisted by the respondent-husband contending that the appellant-wife is qualified and can maintain

herself, as she is earning Rs.15,000/- per month, which fact is suppressed by her. The respondent-husband has also disputed the fact of him doing the job in the factory of his father. It is a categorical stand taken that he is serving with Vishvakarma Enterprises and his income, is Rs.7,000/- per month. Besides, he has the liability of his parents and his son, who are residing with him. The son has attained maturity and is pursuing his masters in Computer Engineering. It is, therefore, stated that with the meagre income, he hardly is in a position to take care of his family and son. The learned Judge, after considering the merits and the principles laid down for granting permanent alimony, allowed Rs.8,000/- per month for the period from 09.07.2013 to 08.07.2020 and Rs. 10,000/- from 09.07.2020 onwards.

19. It is vehemently argued that the alimony granted, is not reasonable and is insufficient; however, Mr. Gadhvi, learned advocate, has not been able to show that the income of the respondent-husband is Rs.60,000/- to Rs. 70,000/-.On the contrary, the salary certificate issued by Vishvakarma Enterprises is placed on record, indicating the salary as Rs. 62,718/- per annum. The salary certificates have been placed on record of the years 2014 to 2019. Furthermore, the learned Judge has also taken note of the admission of the appellant-wife recorded in Criminal Case no.492 of 2013, admitting that she is doing job. Besides, there is no evidence on record dislodging the stands taken by the respective parties.

20. Moreover, it is not in dispute that the respondent is residing in a house consisting of one room and kitchen, which indicates his financial status. Moreover, the undisputed fact is that the respondent being the only son has the responsibility of his parents, so also his son, who now has attained maturity and is pursuing his masters in Computer

Engineering. Considering the evidence and documents available on record, so also the oral evidence of both the parties, the learned Judge, has concluded that in the absence of any cogent and reliable evidence, the say of the respondent-husband, cannot be believed. Exercising the discretion and keeping in mind the principles of granting permanent maintenance, the respondent, was ordered to pay an amount of Rs.8,000/- per month for the period from 09.07.2013 to 08.07.2020 and Rs. 10,000/- from 09.07.2020 onwards.

21. Since, learned advocates could not point out anything contrary or could suggest that the findings arrived at by the learned Judge, are perverse or illegal, this Court is of the opinion that no error can be said to have been committed in allowing the maintenance of Rs.10,000/- per month to the appellant-wife.

22. Mr. Poonam G. Gadhvi, learned advocate, at this stage, has stated that the total outstanding amount was Rs.13,02,000/- out of which, Rs.2,72,000/- was paid towards the interim maintenance, and therefore, an amount to the tune of Rs.10,30,000/- is still outstanding. It is urged that the amount be directed to be deposited with the Family Court at the earliest. Mr. Bhunesh C. Rupera, learned advocate states that at the relevant point of time, in the captioned proceeding, to show bona fide, the respondent - husband has deposited 50% of the amount of Rs.8,54,000/-, which would be Rs.4,27,000/-. It is further stated that the remaining amount shall be deposited at the earliest. It is also urged that the amount already paid and received by the appellant be adjusted accordingly.

23. In view of the above statement, let the appellant provide her bank details to the registry of this Court, and once the details are provided, registry after proper verification, is directed to transfer the

amount of Rs.4,27,000/- in the account of the appellant-wife. The respondent - husband shall deposit the remaining amount with the registry of the Family Court, and the registry shall, after due and proper verification, transfer it in the account of the appellant - wife. Needless to clarify that the amount so withdrawn or received by the appellant wife shall be adjusted against the total outstanding amount.

24. In view of the above discussion, the captioned appeal being First Appeal no.3109 of 2024 does not deserve to be entertained and is hereby, dismissed. Civil Applications, stand disposed of accordingly. No order as to costs.

(SANGEETA K. VISHEN,J)

(NISHA M. THAKORE,J)

SUYASH SRIVASTAVA/SFS/28/11