

(2015) 12 OHC CK 0005

In the Orissa High Court

Case No : CVA No. 17 of 1999 (Against the judgment and order dated 27.04.1999 passed by Judge, Family Court, Rourkela in Civil Proceeding No. 75 of 1998)

Ranjana Rani Panda

APPELLANT

Vs

Sanjay Kumar Panda

RESPONDENT

Date of Decision : 22-12-2015

Acts Referred:

Family Courts Act, 1984 — Section 19(3)
Hindu Marriage Act, 1955 — Section 15, Section 28(4)

Citation : (2017) AIR(Orissa) 25

Hon'ble Judges : Mr. Vinod Prasad and Mr. S.K. Sahoo, JJ.

Bench : Division Bench

Advocate : M/s. Santosh Kumar Dwivedy and R.C. Ray, Advocates, for the Petitioner in RPFAM No. 153 of 2014; Mr. Biyotkesh Mohanty, Advocate, for the Opposite Parties No. 2 in RPFAM No. 153 of 2014; M/s. Santosh Kumar Dwivedy and R.C. Ray, Advocates, for the Respondent in CVA No. 17 of 1999; Mr. Biyotkesh Mohanty, Advocate, for the Appellant in CVA No. 17 of 1999

Final Decision : Disposed Off

Judgement

Mr. S.K. Sahoo, J. - Civil Appeal No. 17 of 1999 has been filed by the appellant-wife Ranjana Rani Panda (hereafter "the appellantwife") challenging the impugned judgment and order dated 27.04.1999 passed by the learned Judge, Family Court, Rourkela in Civil Proceeding No. 75 of 1998 in allowing the petition under section 13 (1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 filed by respondent-husband Sanjay Kumar Panda (hereafter "the respondent-husband") and directing the marriage solemnized between the parties on 16.01.1996 to be dissolved by a decree of divorce.

RPFAM No. 153 of 2014 has been filed by the respondent-husband challenging the impugned judgment and order dated 11.07.2014 passed by the learned Judge, Family Court, Rourkela in Criminal Proceeding No. 85 of 2012 in allowing the petition under section 127 Cr.P.C. filed by the appellant-wife and her

daughter Pinkey Panda and directing enhancement of monthly maintenance allowance to Rs.5000/- and Rs. 4000/- respectively which included housing to be paid by the respondent-husband from September 2012.

Since both the cases arise out of matrimonial dispute, with the consent of the parties, the cases were heard analogously and the same are being disposed of by this common judgment.

2. The respondent-husband instituted a Divorce Proceeding against the appellant-wife stating therein that the marriage between the parties was solemnized on 16.01.1996 in Sector-9, P.S.- Sector-7, Rourkela in accordance with Hindu rites and customs. After the marriage, the parties lead their conjugal life for about three months in the house of the respondent-husband.

Thereafter, the appellant-wife started creating disturbance in the marital life, neglected her domestic duties for which most of the time the respondent-husband used to go to attend his duties in Rourkela Steel Plant without food. The appellant-wife was using insulting language towards her mother-in-law and other in-laws family members without any reasonable cause. It is the further case of the respondent-husband that the appellant-wife started pressuring him to live separately but he expressed his unwillingness since he was the eldest son of the family. The appellant-wife threatened to commit suicide and in spite of the intervention of the family members and well wishers, she did not mend her behaviour and treated the respondent-husband with cruelty.

It is the further case of the respondent-husband that on 17.07.1996 the appellant-wife complained of pain in her abdomen for which she was taken to I.G.H., Rourkela for medical treatment but after her medical check up, she insisted to go to her elder sister's house who was also staying at Rourkela and when the respondent-husband took her there, she became violent and refused to return back to her in-laws house. The respondent-husband wrote several letters to the appellant-wife to return back but when no fruitful result came, he instituted a petition under section 9 of the Hindu Marriage Act read with section 7 of the Family Courts Act bearing Civil Proceeding No. 129 of 1996 before the Judge, Family Court, Rourkela which was allowed vide judgment and order dated 23.07.1997 and the appellant-wife was directed to reconstitute the conjugal life with the respondent-husband within two months from the date of judgment. In the meantime, the appellant-wife was blessed with a daughter. The appellant-wife did not turn up back to her matrimonial house even though the respondent-husband tried his level best. It is the case of respondent-husband that the appellant-wife made his life miserable by subjecting him to cruelty.

3. The divorce petition was filed on 30.07.1998. Notice was issued to the appellant-wife who entered her appearance.

The appellant-wife filed her written statement denying the allegations levelled against her rather it is her case that after seven days of marriage, her husband started illtreatment and subjected her to cruelty and demanded Rs.50,000/-

towards dowry. As the appellant-wife expressed her inability, she was assaulted regularly by her husband after consuming liquor. When she was pregnant, the husband assaulted her by means of kick blows on the lower part of her abdomen for which she was shifted to hospital. On 17.07.1996 her condition became serious for which she was taken to hospital and thereafter she came to her father's place. It is the further case of the appellant-wife that her husband used to keep illicit relationship with number of ladies and severely tortured her and did not provide her medical treatment and even after the birth of the child, he did not come to see the child. Though she instituted maintenance case but she had not received any maintenance.

4. After conciliation failed, the Family Judge framed the following issues:-

(i) Whether there has been no restitution of conjugal life to the marriage of the petitioner and the respondent for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in Civil Proceeding No. 129 of 1996 to which they were parties?

(ii) To what relief, if any, the petitioner is entitled?

5. During hearing of the case, the respondent-husband examined himself as P.W. 1 and proved two documents. Ext.1 is the certified copy of decree in C.P. No.129 of 1996 dated 06.08.1997 of Family Court, Rourkela and Ext.2 is the medical card of the appellant-wife.

The appellant-wife examined herself as D.W. 1. She also examined her maternal uncle Girija Shankar Kabi as D.W.2 and her maternal aunt Bhawani Shankar Kabi as D.W.3.

6. The learned Family Judge has been pleased to observe that the appellant-wife without reasonable excuse had withdrawn from the society of the respondent-husband on 17.07.1996 and there is no material that after 17.07.1996, the appellant-wife at any time joined her husband and therefore unhesitatingly she was avoiding to join her husband even after the passing of the decree for restitution of conjugal rights without any rhyme or reason. The learned Family Judge further held that since more than a year had elapsed from the date of decree of restitution of conjugal rights, there was no scope left for the Court except to hold that the marriage solemnized between the parties is dissolved. Accordingly, the learned Family Judge dissolved the marriage between the respondent-husband and appellant-wife by a decree of divorce to be effective from the date of decree.

7. While challenging the impugned judgment and order of decree of divorce, Mr. Biyotkesh Mohanty, learned counsel appearing for the appellant-wife contended that the learned Family Judge has committed illegality in granting the decree of divorce without considering the allegations of torture and violence used against the appellant-wife by the respondent-husband inasmuch as it is the case of the appellant-wife that she could not join the company of her husband because of

the violent attitude of her husband. It is also contended that the learned Family Judge has also committed illegality without passing any order of permanent alimony at the time of passing the decree of divorce.

On the other hand Mr. Santosh Kumar Dwivedy, the learned counsel appearing for the respondent-husband contended that there is no illegality in the impugned judgment of the learned Family Judge and since the appellant-wife did not join the company of her husband even after passing of the decree of restitution of conjugal life in favour of the husband for more than a year, that itself is sufficient to pass a decree of divorce and in such a situation, non-consideration of materials like cruelty is immaterial and the appellant-wife is not entitled to get any permanent alimony.

8. During pendency of the Civil Appeal, on 29.07.2015 the respondent-husband appeared before this Court in absence of his counsel and stated that he is working as a Senior Operator in Rourkela Steel Plant and his salary is around Rs.42,000/- per month but after deduction, he is getting a very small amount. He further submitted that as the appellant-wife is not cooperating with him and not furnished her bank account, he is unable to pay her any money. He further submitted that he has not been permitted to meet his daughter who is now continuing graduation studies. He further submitted that he had already solemnized a second marriage and through his second wife Nandita Panda, he is blessed with two sons namely Sandip who is now aged about fifteen years and Sudip who is now aged about thirteen years and both the sons are now studying. He further submitted that in his Provident Fund Account, there is around Rs.6 to 7 lakhs.

On 21.08.2015 the appellant-wife, the respondent-husband and their daughter Pritirani Panda @ Pinki appeared before this Court. The daughter is now aged about eighteen years. This Court directed the respondent-husband to bring a draft of Rs.9,50,000/- in the name of Pritirani Panda @ Pinki on the next date. Since on that day the respondent-husband submitted that he had Rs.9 to 10 lakhs in his Provident Fund Account, this Court directed that if an application is made by the respondent-husband before the concerned Accounts Officer who is in charge of Provident Fund for withdrawal of Rs.9,50,000/-, the same shall be allowed. The case was posted to 11.09.2015.

On 11.09.2015 an application was filed by the respondent-husband for recalling the order dated 21.08.2015 and it was stated that he is not in a position to pay such amount to his daughter. This Court directed for the seizure of Provident Fund Account of the respondent-husband until further orders and directed that no amount shall be withdrawn from the Provident Fund Account.

9. On 08.10.2015 a reply affidavit was filed by the respondent-husband to the Civil Appeal filed by the appellant-wife wherein it is stated that since the appellant-wife left his company without any valid reason and even did not turn up to join the company of the respondent-husband in spite of the decree for

restitution of conjugal rites, no relief can be granted to her. It is further stated that from the reliable sources the respondent-husband had ascertained that the appellant-wife had already re-married and leading a married life in Kolkata with her second husband and she is not taking care of the daughter Pritirani Panda who is staying at the house of her maternal uncle. It is further stated that even though no alimony has been granted while passing the decree of divorce but since the appellant-wife had already re-married, she is not entitled to get any alimony. While admitting his second marriage and also having two sons through the second marriage, the respondent-husband stated that whatever amount had been directed to be paid to the appellant-wife had already been deducted from his salary. It is further stated that the appellant-wife is running a beauty parlour and earning a handsome amount and as sixteen years have passed in the meantime since the date of decree of divorce and both the parties have already re-married, the appeal should be dismissed.

In reply, the appellant-wife filed rejoinder affidavit wherein she has disputed her alleged second marriage and living at Kolkata. It is further indicated that their daughter Pritirani Panda @ Pinki after completion of her +2 studies from Chinmaya Vidyalaya, Rourkela has been admitted in Rourkela Institute of Management and prosecuting her B. BA course. The appellant-wife also pointed out certain discrepancies in the stand taken by the respondent-husband in the RPFAM petition as well as the Reply Affidavit to the Civil Appeal.

10. The impugned judgment and order of decree of divorce was passed by the Judge, Family Court, Rourkela on 27.04.1999. This Civil Appeal under section 19 of the Family Courts Act, 1984 was filed on 12.07.1999 by the appellant-wife challenging the impugned judgment and order passed by the Family Judge. Sub-section (3) of section 19 of the Family Courts Act, 1984 prescribes a time period of thirty days for preferring an appeal from the date of judgment or order of the Family Court. Though under sub-section (4) of section 28 of the Hindu Marriage Act, 1955, appeal against the decree passed in any proceeding under the Act or the orders passed under section 25 and 26 of the Act can be preferred within a period of ninety days but since the proceeding was dealt by the Family Court under the provisions of Family Courts Act, 1984, we are of the view that the appeal period in this case was thirty days from the date of judgment of the Family Court. After taking note of the copy period, the Stamp Reporter has rightly pointed out that there was no delay in presenting the appeal.

Section 15 of the Hindu Marriage Act states that a person can re-marry after getting a divorce decree in his/her favour if there is no right of appeal against such decree or even if there is such a right of appeal, the time for appealing has expired and the appeal has either not been presented by the other side or the appeal preferred challenging such decree of divorce has been dismissed. In the present case when the appeal was preferred within time, we are of the view that the second marriage of the respondent-husband was not lawful. We could have taken a serious note of such conduct of the respondent-husband in marrying for

the second time but we cannot forget that sixteen years have passed in the meantime since the date of decree of divorce and the respondent-husband is blessed with two children through his second wife and moreover in view of the sea change in the scenario, the appellant-wife is not interested to stay in the company of the respondent-husband and therefore we are not passing any adverse order for the conduct of the respondent-husband. Though the respondent-husband has pleaded in his reply affidavit that the appellant-wife had already re-married and settled at Kolkata but she has denied the same. No materials have also been brought forth by the respondent-husband in support of his contention and therefore we are not inclined to accept the bald allegation that the appellant-wife had re-married.

11. Since the decree of divorce has been passed in the year 1999 and in view of its pendency development particularly the conduct of the respondent-husband in marrying for the second time and being blessed with two sons, the appellant-wife is not challenging the decree of divorce but claiming only permanent alimony, we do not think it proper to analyse the evidence available on record in detail to scrutinize the impugned judgment as to whether in the facts and circumstances of the case, the learned Family Judge was justified or not to pass the impugned decree of divorce.

However, we are of the view section 13 (1-A) of Hindu Marriage Act only enables either party to a marriage to file an application for dissolution of marriage by a decree of divorce on any of the grounds stated therein. The section does not provide that once the applicant makes an application alleging fulfilment of one of the conditions specified therein, the Court has no alternative but to grant a decree of divorce. In other words, the right conferred by sub-section (1-A) of section 13 is neither absolute nor unqualified. Whether the relief of dissolution of the marriage by a decree of divorce is to be granted or not depends on the facts and circumstances of the case.

Having dispassionately considered the materials before us and the fact that the respondent-husband and the appellant-wife had been living separately for 16 years as of now after the decree of divorce and they are not interested to live with each other, it would be in the interest of both the parties to sever the matrimonial ties since the marriage has broken down irretrievably. Court grants a decree of divorce only in those situations in which the Court is convinced beyond doubt that there is absolutely no chance of the marriage surviving and it is broken down beyond repair. Since both the parties are not willing to stay with each other and the marriage between the parties is dead for all purposes and one of the party i.e. the respondent-husband has already married for the second time and is blessed with two sons through the second marriage, even if we set aside the impugned decree of divorce, there are hardly any chances for both of them staying together to lead a happy conjugal life and therefore, it is a fit case where the decree of divorce passed by the learned Family Judge should be upheld. Accordingly we uphold the decree of divorce.

12. So far as permanent alimony is concerned, no order has been passed by the learned Family Judge in that respect while passing the decree of divorce. Even though the decree of divorce was passed on the ground that there has been no restitution of conjugal rights as between the appellant-wife and the respondent-husband for a period of one year or upwards after the passing of a decree for restitution of conjugal rights but no reason whatsoever has been assigned by the Family Judge for not passing any order of permanent alimony in terms of section 25 of the Hindu Marriage Act. We are not inclined to accept the contention raised by the learned counsel for the respondent-husband that if a wife does not join the company of her husband in spite of the direction of restitution of conjugal rights, at the time of passing decree of divorce in favour of the husband, no permanent alimony can be granted to the wife.

In case of Rameshchandra Rampratapji Daga v. Rameshwari Rameshchandra Daga reported in AIR 2005 SC 422, it is held as follows:-

"18. In the present case, on the husband's petition, a decree declaring the second marriage as null and void has been granted. The learned counsel has argued that where the marriage is found to be null and void - meaning non-existent in eye of law or non est, the present respondent cannot lay a claim as wife for grant of permanent alimony or maintenance. We have critically examined the provisions of Section 25 in the light of conflicting decisions of the High Court cited before us. In our considered opinion, as has been held by this Court in Chand Dhawan's case (1993) 3 SCC 406, the expression used in the opening part of Section 25 enabling the "Court exercising jurisdiction under the Act" "at the time of passing any decree or at any time subsequent thereto" to grant alimony or maintenance cannot be restricted only to, as contended, decree of judicial separation under Section 10 or divorce under Section 13. When the legislature has used such wide expression as "at the time of passing of any decree," it encompasses within the expression all kinds of decrees such as restitution of conjugal rights under Section 9, judicial separation under Section 10, declaring marriage as null and void under Section 11, annulment of marriage as voidable under Section 12 and Divorce under Section 13.

x x x x x

21. Section 25 is an enabling provision. It empowers the Court in a matrimonial case to consider facts and circumstances of the spouse applying and decide whether or not to grant permanent alimony or maintenance."

In case of U. Sree v. U. Srinivas reported in AIR 2013 SC 415 and K. Srinivas Rao v. D.A. Deepa reported in AIR 2013 SC 2176, the Hon'ble Supreme Court in spite of arriving at a conclusion that the husband has made out a case for divorce proving mental cruelty, held that the wife is entitled to permanent alimony for her sustenance.

Determination of quantum of permanent alimony to be paid so that the entitled spouse lives a dignified life according to the standard of the other side is an

upheaval and arduous task. Length of marriage, time since the spouses are living separately, age of the parties, relative income of both the spouses, financial prospects of the parties, health of the parties and fault in breaking down of the marriage are some of the factors which can be kept in mind while fixing the permanent alimony.

In case of Vinny Parmvir Parmar v. Parmvir Parmar reported in AIR 2011 SC 2748, it is held as follows:-

"12. As per Section 25 of Hindu Marriage Act, while considering the claim for permanent alimony and maintenance of either spouse, the respondent's own income and other property, and the income and other property of the applicant are all relevant material in addition to the conduct of the parties and other circumstances of the case. It is further seen that the Court considering such claim has to consider all the above relevant materials and determine the amount which is to be just for living standard. No fixed formula can be laid for fixing the amount of maintenance. It has to be in the nature of things which depend on various facts and circumstances of each case. The Court has to consider the status of the parties, their respective needs, the capacity of the husband to pay, having regard to reasonable expenses for his own maintenance and others whom he is obliged to maintain under the law and statute. The courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party. These are all the broad principles courts have to be kept in mind while determining maintenance or permanent alimony."

In case of U. Sree v. U. Srinivas reported in AIR 2013 SC 415, it is held as follows:-

"33.....Be it stated, while granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the status of the parties, their respective social needs, the financial capacity of the husband and other obligations.....

34.....Be that as it may, it is the duty of the Court to see that the wife lives with dignity and comfort and not in penury. The living need not be luxurious but simultaneously she should not be left to live in discomfort. The Court has to act with pragmatic sensibility to such an issue so that the wife does not meet any kind of man-made misfortune".

In case of Dipak Bash v. Smitarani Bash reported in 2015 (1) Indian Law Reports (Cuttack) 878, my esteemed brother Hon"ble Justice Vinod Prasad has held as follows:-

"19. Alimony is no alms. It is entitlement of a wife for a decent living. All relevant factors affecting fiscal expenses have to be considered. It is not the home take

salary alone which is of significance. Capacity to earn and actual earning has also to be reckoned with. Savings made by the husband for securing his future life is also significant and has to be counted while determining the amount of alimony. Wife does not require only two morsels a day but she requires a reasonable amount to meet all her basic needs for a life which she would have enjoyed had the marital tie would have continued. The amount of money received at the time of marriage has also to be counted. While fixing alimony, all essential future expenses of all kinds have to be considered. The contention that take home salary of the husband is the only relevant criterion is illogical and faulty. Wife's capacity to earn after separation is also a relevant factor to be kept in mind. Similarly the responsibility which the wife would have borne had the relationship continued is also a relevant aspect to be kept in mind. Residence, future possibility of maintaining oneself alone, clothing, fooding, biological requirements of a female and many further aspects are other significant points which have to be kept in mind???While granting permanent alimony, no arithmetic formula can be adopted as there cannot be mathematical exactitude. It shall depend upon the social status of the parties, their respective social needs, the way of living of the spouse, the financial capacity of the husband and other obligations. It is duty of the Court to see that the wife lives with dignity and comfort and not in penury. The living need not be luxurious but simultaneously she should not be left to live in discomfort. The Court has to act with pragmatic sensibility to such an issue so that the wife does not meet any kind of man-made misfortune. The Courts also have to take note of the fact that the amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and mode of life she was used to live when she lived with her husband. At the same time, the amount so fixed cannot be excessive or affect the living condition of the other party."

In case of Shamima Farooqui v. Shahid Khan reported in (2015) 5 Supreme Court Cases 705, it is held as follows:-

"14????A woman, who is constrained to leave the marital home, should not be allowed to feel that she has fallen from grace and move hither and thither arranging for sustenance. As per law, she is entitled to lead a life in the similar manner as she would have lived in the house of her husband. And that is where the status and strata of the husband comes into play and that is where the legal obligation of the husband becomes a prominent one."

We have considered the respective submissions on the quantum of permanent alimony. There is no dispute which is also the statement of the respondent-husband that he is serving in Rourkela Steel Plant as a Senior Operator and his salary is Rs. 42,000/- (Rupees Forty Two Thousand) as per his statement given before this Court on 29.07.2015. Taking into account the income of the respondent-husband, the need of the respective families of the parties, age of the appellant-wife which is now 41 years and that she has to meet any kind of man-made misfortune in future and the fact that Pritirani Panda @ Pinki who is

the daughter of the parties and staying with the appellant-wife is prosecuting her studies in B. BA in Rourkela Institute of Management Studies and taking note of her fees structure which has been produced before us by the appellant-wife by way of an affidavit with documents and the fact that in future, the appellant-wife has to bear the marriage expenses of her daughter, we are of the view that in the facts and circumstances of the case, it would be just, quite reasonable and expedient in the ends of justice to fix the quantum of permanent alimony under Section 25 of the Hindu Marriage Act, 1955 payable to the appellant-wife at Rs. 20 lakhs in addition to what the respondent-husband has already paid in different proceedings to the appellant-wife. The amount that has already been paid to the appellant-wife or her daughter towards maintenance is to be ignored as the same had been paid by virtue of the interim orders passed by the Courts and it is not expected that the petitioner-wife has sustained herself and her daughter without spending the said money.

Accordingly, the appeal is allowed in part. The impugned judgment and order passed by the learned Judge, Family Court, Rourkela in passing the decree of divorce and dissolving the marriage between appellant-wife Ranjana Rani Panda and respondent-husband Sanjay Kumar Panda is upheld. We direct under Section 25 of the Hindu Marriage Act, 1955 to the respondent-husband to pay Rs. 20 lakhs to the appellant-wife towards permanent alimony. The said amount of Rs. 20 lakhs (rupees twenty lakhs only) shall be deposited by the appellant-husband by way of bank draft before the Family Court, Rourkela within a period of six months from today in the event of which the same shall be handed over to the appellant-wife by the Family Court on proper identification failing which the appellant-wife shall be at liberty to realize the same from the husband with due process of law. In case any application is made by the respondent-husband for release of money from his Provident Fund to comply the order of payment of permanent alimony, the authorities dealing with Provident Fund shall consider such application and release the amount and the Rules of Provident Fund shall not be impediment for compliance of the order.

13. So far as RPFAM No.153 of 2014 is concerned, the respondent-husband has filed this revision petition challenging the order dated 11.07.2014 passed in Criminal Proceeding No. 85 of 2012 by the learned Judge, Family Court, Rourkela under section 127 Cr.P.C. enhancing the quantum of maintenance.

Since there was delay in filing the revision petition, an application was filed under section 5 of the Limitation Act for condoning the delay in filing the revision petition. Notice was issued on the delay condonation petition in pursuance of which the appellant-wife has entered appearance. It is stated in the limitation petition that the certified copy of the impugned judgment was made ready on 01.08.2014 which was also delivered to the respondent-husband on that day. Even though thereafter sufficient period was there for filing the revision petition but it was not filed within the stipulated period of time of 90 days excluding the copy period. Though a ground has been taken that the respondent-husband was

attending his ailing father for which he could not approach his counsel in time but neither any details regarding the ailments of his father has been mentioned nor any medical documents have been filed in support of such averment. It is mentioned in the application that there is delay of 13 days in preferring the revision petition which is not correct in view of the report of the stamp reporter.

The learned counsel for the appellant-wife opposed the prayer for condonation of delay.

Considering the submissions made by the respective parties, we are of the view that no sufficient cause has been shown for condoning the delay in filing the revision petition. The limitation petition is also lacking in material particulars and wrong averments regarding actual number of days of delay has been taken. Though it is the settled principle of law that "sufficient cause" should receive liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party and acceptance of explanation furnished should be rule and refusal an exception and explanation furnished should not be rejected by taking a pedantic and hyper technical view in the matter but in the present case we are of the view that after receiving the certified copy of the impugned judgment, there was sufficient time in the hands of the respondent-husband to prefer revision petition within time. In spite of that the inaction of the respondent-husband in preferring the revision petition in time speaks of gross negligence and want of bona fide. In view of what we have discussed, we are not inclined to condone the period of delay in preferring the revision petition. Accordingly RPFAM petition stands dismissed as being barred by limitation.

14. Before parting, we would like to humbly say that peaceful marriage is blissful. Marriages are not made in heaven but on this earth. A couple can however make their marital life heavenly without any kind of thunder and lightning only by mutual love, mutual trust and mutual understanding. The promises made on the marriage altar before the sacred fire holding hand in hand should be fulfilled with commitment and endless forgiveness till the end of journey.

15. In the result, Civil Appeal is allowed in part and to the extent mentioned hereinbefore. RPFAM petition stands dismissed. Till the deposit of entire permanent alimony amount as fixed by us, the respondent-husband shall go on paying the monthly maintenance amount as was directed by the Family Judge earlier.

Vinod Prasad, J. - I agree.