

**IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT GULBARGA**

Dated this the 26<sup>th</sup> day of September, 2012

**PRESENT:**

**THE HON'BLE MR JUSTICE D V SHYLENDRA KUMAR**

**AND**

**THE HON'BLE MR JUSTICE A S PACHHAPURE**

Miscellaneous First Appeal No. 31270/2011 (FC)

**BETWEEN:**

GOURISANKAR S/O LAXMINARAYAN  
PATANGE,  
AGED ABOUT 43 YEARS,  
OCC: BUSINESS,  
R/O H.NO: 2-3-10/D, GOLANKA,  
AMBER PET, HYDERABAD

... APPELLANT

[By Sri. Chandra Mohan Dubey, Advocate – Absent]

**AND:**

SMT REKHA @ SUREKHA  
W/O GOURISANKAR,  
AGED ABOUT 33 YEARS,  
OCC: HOUSEHOLD,  
R/O H.NO.6-7/112 (NEW),  
BESIDES BASAVA MANTAP,  
BIDAR.

... RESPONDENT

[By Sri. B.R.Math & Sri A.S.Rawoor, Advocates]

This MFA is filed u/s 28(1) of Hindu Marriage Act against the judgement and decree dated 21.04.2010 passed in M.C.No.10/2008 on the file of the Prl. Civil Judge (Sr.Dn), Bidar wherein partly allowing the suit filed u/s 13(1)(ia), (ib) and 25 of Hindu Marriage Act.

THIS APPEAL COMING ON FOR ORDERS, THIS DAY, **D V SHYLENDRA KUMAR J.**, DELIVERED THE FOLLOWING:

### **JUDGMENT**

Appeal u/s 28(1) of the Hindu Marriage Act, questioning the correctness of the order and decree dated 21.04.2010 passed by Prl. Civil Judge (Sr.Dn), Bidar in M.C.No. 10/2008, allowing the respondent – wife's petition filed u/s 13(1), 13(ia), (ib) and Section 25 of Hindu Marriage Act 1955, dissolving the marriage of the parties that taken place on 24.05.2006 and also awarding alimony of ₹75,000/- together with monthly maintenance of ₹900/- per month to the respondent – wife.

2. The order though was passed on 21<sup>st</sup> April 2010, appeal is preferred by filing the appeal on 14.06.2011, i.e., more than one year after the passing of the order. An application u/s 5 is filed explaining the delay in filing and praying for condonation of delay of 329 days in filing the appeal. There is a delay of more than one year even in applying for the certified copy and it is attributed to the counsel's disinclination to file copy application etc. Except for this reason, there is no other reason forthcoming in the

affidavit of the appellant filed in support of the application seeking for condonation of delay.

3. It is argued by Sri Basawaraj R. Math, learned counsel appearing for the Respondent that, the appellant has neither paid alimony amount nor monthly maintenance; that the appeal is filed only after the respondent – wife sought execution of the order towards alimony.

4. We find the explanation in support of application seeking for condonation of delay, not at all convincing or bonafide. There is absolutely no case made out for condoning the delay. Therefore, the application for condonation of delay is dismissed, and consequently the appeal is also dismissed.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

\*MK