

**SUPREME COURT OF INDIA**

Arundhati @ Harshana

Vs

Iranna @ Veerendra

C.A.No.1584 of 2008

(Tarun Chatterjee and Harjit Singh Bedi JJ.)

25.02.2008

**JUDGMENT**

**Tarun Chatterjee,J**

1. Delay condoned.
2. Leave granted.
3. This appeal is directed against the judgment and order dated 22nd of September, 2006 of the High Court of Karnataka at Bangalore in MFA No.1741 of 2006, whereby the High Court had dismissed the first appeal which was to be decided on facts and law.
4. A suit was filed by the wife appellant for divorce on the ground of cruelty and desertion. The suit was dismissed and a first appeal was carried to the High Court. By the impugned judgment the High Court had dismissed the appeal at the admission stage without calling for the records and without admitting it.
5. We have heard the learned counsel for the parties and examined the judgments of the High Court as well as of the trial court and other materials on record. In our view the High Court had erred in dismissing the first appeal at the admission stage itself without issuing notice to the respondent and without looking into the evidence and other materials on record and also without considering the propriety of the findings made by the trial court. Accordingly, the judgment of the High Court is set aside and the appeal is remitted back to the High Court for fresh determination by passing a reasoned order in accordance with law after serving notice on the respondent and taking into consideration the entire materials on record including the oral and documentary evidence.

6. For the reasons aforesaid, the appeal is allowed to the extent indicated above. There will be no order as to costs.