

Amit Kumar Singh Vs. Neha Singh

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Court : Jharkhand

Decided On : Jun-14-2017

Appellant : Amit Kumar Singh

Respondent : Neha Singh

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI F. A. No. 100 of 2015 [Against the Judgment and Decree 29th of January, 2015, passed in Title Matrimonial Suit No. 450 of 2008, by the learned Principal Judge, Family Court, Dhanbad.] Amit Kumar Singh Appellant Versus Neha Singh .. Respondent ----- PRESENT : HONBLE MR. JUSTICE H. C. MISHRA : HONBLE MR. JUSTICE RATNAKER BHENGRA ----- For the Appellant : Mr. Ajay Kumar Pathak, Advocate. For the Respondent : Mr. Kalyan Banerjee, Advocate. ----- By Court:- Heard learned counsel for the appellant and learned counsel for the respondent. As the efforts of conciliation between the parties have failed, we have heard learned counsels on merits.

2. The appellant husband is aggrieved by the Judgment and Decree dated th 29 of January, 2015, passed in Title Matrimonial Suit No. 450 of 2008, by the learned Principal Judge, Family Court, Dhanbad, whereby the matrimonial suit, filed by the appellant-husband, under Section 13(1)(i-a) of the Hindu Marriage Act, for dissolution of marriage by a decree of divorce, on the ground of mental cruelty by his wife, has been dismissed by the learned Court below.

3. The facts of this case lie in a short compass. The marriage between the parties and birth of a son, out of the wedlock are admitted facts. The impugned Judgment shows that the marriage between the parties had taken place on 19.6.2006 according to the Hindu rites and customs and out of the wedlock they were blessed with a son on 19.3.2007.

4. According to the appellant-husbands case, on 24.10.2007, the respondent-wifes brother came and she accompanied her brother and went to Dhanbad to her parents' place and since then she is living separately from her husband. It is further alleged that the appellant was being subjected to cruelty by the respondent-wife in presence of his family members as she was in habit of assaulting the infant child in order to subject them to mental cruelty and she was not interested in the matrimonial relationship. Stating that the cruel, abnormal and erratic behavior had broken the appellant-husband, the suit was filed for dissolution of marriage between the parties in the Family Court at Ranchi, which was subsequently transferred to the Family Court at Dhanbad.

5. Upon notice, respondent-wife appeared and she denied the entire allegations made by the husband against her. According to the case of the respondent-wife, she was being subjected to cruelty and torture for demand of dowry and for that a criminal case was filed under Sections 498-A, 323, 307, 379 / 34 of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act against the husband, and it is the specific case of the respondent-wife that in order to save his skin from the said criminal case, the present matrimonial suit was filed by the husband.

6. The impugned Judgment shows that three witnesses were examined on behalf of the appellant-husband, who are P.W.-1 Amit Kumar Singh, the appellant himself, P.W.-2 Ashok Singh and P.W.-3 Vivek Kr. Choubey. The Court below has -2- stated that the witnesses examined by the petitioner-husband have supported his case, but P.W.-2 Ashok Singh and P.W.-3 Vivek Kr. Choubey, are not the family members of the appellant-husband, rather they are outsiders.

7. The respondent-wife had also filed her evidence on affidavit, but she did not turn up for her cross-examination, and accordingly, her evidence was not taken

into consideration.

8. The learned Court below has found in the impugned Judgment that not a single family member has been examined by the husband, and accordingly, the suit has been dismissed by the learned Principal Judge, Family Court, Dhanbad by the impugned Judgment and Decree dated 29th of January, 2015.

9. Learned counsel for the appellant has submitted that the impugned Judgment and Decree, passed by the Court below is absolutely illegal and cannot be sustained in the eyes of law. It is submitted that admittedly both the parties are living separately now since 10 years and this also is a good ground for dissolution of marriage between the parties. Learned counsel, submitted that since the witnesses examined on behalf of the appellant-husband had supported the case of the husband in the Court below and there was no contrary evidence from the side of the respondent-wife, the suit ought to have been decreed by the Court below.

10. Learned counsel for the respondent-wife on the other hand has opposed the prayer and has submitted that the suit has rightly been dismissed in view of the fact that not a single family member of the husband has turned up before the Court below to support the allegations, as has been made by the husband against his wife.

11. Having heard learned counsels for both the sides and upon going through the record, we find that it is a specific case of the husband that the respondent-wife was behaving in cruel manner and she was in habit of assaulting the infant child in presence of the family members of the husband in order to subject them to mental cruelty, and on this ground, the husband has filed the suit to dissolve the marriage between the parties by a decree of divorce. Not a single family member has turned up before the Court below to support the allegation against the respondent-wife, that she was in habit of subjecting the infant child to cruelty in their presence, in order to subject them to mental cruelty. We are of the considered view that in absence of any evidence from the family members of the appellant-husband, supporting the claim of the appellant-husband, the Court below has rightly dismissed the suit.

12. We do not find any illegality in the impugned Judgment and Decree th dated 29 of January, 2015, passed in Title Matrimonial Suit No. 450 of 2008, by the learned Principal Judge, Family Court, Dhanbad. There is no merit in this appeal and the same is accordingly, dismissed. (H. C. Mishra, J.) (Ratnaker Bhengra, J.) Jharkhand High Court, Ranchi Dated the 14th of June, 2017. N.A.F.R./ Amitesh/-

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