

B. Laxmi Vs. B. Venugopal

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Court : Andhra Pradesh

Decided On : Jun-10-2005

Reported in : 2005(4)ALT428

Judge : Bilal Nazki, Acting C.J.

Acts : [Evidence Act, 1872](#) - Sections 14; [Constitution of India](#) - Article 21

Appeal No. : C.R.P. No. 6173 of 2004

Appellant : B. Laxmi

Respondent : B. Venugopal

Advocate for Def. : S. Niranjan Reddy, Adv.

Advocate for Pet/Ap. : G. Ravi Mohan, Adv.

Judgement :

ORDER

Bilal Nazki, Acting C.J.

1. This Civil Revision Petition has been filed by Smt. Laxmi, who is respondent in I.A. No. 957 of 2004 in OP. No. 225 of 2003 before the Family Court, Hyderabad.

2. The petition was filed before the trial Court by the husband against the present petitioner with a prayer that she should be referred to a physician for medical

examination so as to determine whether she was suffering from Schizophrenia or any other mental disease. The main OP was filed for divorce. The trial Court allowed the petition and directed the petitioner herein to appear before the Superintendent, Mental Hospital, Yarragadda, for examination on a particular date. Aggrieved thereby, this Civil Revision Petition is filed.

3. The order in LA. No. 957 of 2004 is challenged on the ground that it is an invasion over the rights of the petitioner as enshrined in Article 21 of the [Constitution of India](#). However, this revision was entertained. On 31-12-2004, this Court directed parties to be present and they were present on 31-01-2005. I have examined the petitioner. But after a brief interview with the petitioner, it was difficult to come to any conclusion with regard to her mental health. This Court is also conscious of its limitations in expressing its opinion on petitioner's mental health.

4. However, the learned Counsel for the respondent submits that the question as to whether a person can be referred for medical examination, has already been considered by the Supreme Court in *Sharda v. Dharmpal*, : [2003]3SCR106 , and the Court was of the view that such an order would not be violative of right to personal liberty under Article 21 of the [Constitution of India](#).

5. In the present case, the mental health of the petitioner is one of the grounds for seeking divorce. I have gone through the judgment of the Supreme Court. Though it was held that the Courts can direct medical examination of a party to a matrimonial litigation in a case of particular nature, but it was not held that the said person could be forced to undergo such an examination.

6. Therefore, while upholding the order dated 5-10-2004 in I.A. No. 957 of 2004 in O.P. No. 225 of 2005 passed by the learned Judge, Family Court, Hyderabad, it is clarified that the petitioner cannot be and may not be forced to undergo the medical examination. However, if she refuses to undergo the medical examination as directed, the Court can draw its inferences in accordance with Section 14 of the Indian Evidence Act.

7. With these observations, the Civil Revision Petition is disposed of. No order as to costs.

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