

Tanni Vs. Kallu

Tanni Vs. Kallu

SooperKanoon Citation : sooperkanoon.com/476230

Court : Allahabad

Decided On : Jul-15-1927

Reported in : AIR1928All106; 108Ind.Cas.133

Appellant : Tanni

Respondent : Kallu

Judgement :

Mears, C.J.

1. About six or seven years ago Mt. Tanni had the misfortune to marry a man named Kallu. Almost from the outset Kallu habitually beat his wife and finally left her alone in his house and went to live with his maternal uncle leaving the woman in the house without any food so that eventually she went to her mother and has been with her ever since. Kallu was unwise enough to seek the assistance of the Court in a suit for restitution of conjugal rights and he presented himself before the Court of the First Additional Munsif of Cawnpore and cut a very sorry figure before him. The Additional Munsif of Cawnpore not only considered him to be definitely lying in the witness-box but believed him to be guilty of habitual cruelty with which his wife had charged him. The young woman went into the witness-box and she detailed a long sequence of acts of cruelty extending over nearly the whole period of her married life. Her mother supported her as regards some of these matters and several witnesses deposed that they saw Kallu quarrelling and beating his wife and in addition Gulzar Khan and Shubrati who were near neighbours, spoke

of one occasion on which Kallu was sitting upon his wife's breast and beating her at a time when she was about to have a baby. The Additional Munsif of Cawnpore tried this matter with the utmost care. We have read the whole of his judgment and to us it appears that the conclusions of fact to which he came were amply supported by evidence and that he did come to a correct decision when he decided that this young woman had been submitted to such a habitual course of ill-treatment that no Court ought to order her again to consort with her husband.

2. The matter came before Mr. Mehta who, apparently without any evidence at all, in our view misdirected himself upon a most important matter. He seems to have approached this case from the point of view that people in the social position of Kallu and Mt. Tanni habitually resorted, the one to the beating of the wife and the other to submitting to the beating.

3. He says:

There must have been occasional beating of the wife by the appellant as is commonly seen among illiterate persons of the lower strata of society to which the parties belong.

4. When one knows that 90% of the people of this country are illiterate, that means, according to Mr. Mehta, that approximately the male portion of about 100 millions of the lower strata of people habitually beat their wives from time to time. No evidence of that kind was given, but this conclusion of Mr. Mehta's coloured the whole of his judgment and he was not in a mood to accept the evidence given by the young girl and her mother and the other witnesses. We can find no reason whatever for his dissenting from the Munsif because he does not suggest why their evidence is unworthy of belief whilst he concedes that the Munsif was in a position to note their demeanor in the witness-box. The only way in which he gets rid of their evidence is by saying:

when I consider all the attendant circumstances of the case, their evidence does not strike me as reliable at all.

5. He gives no indication of what are the attendant circumstances of the case which in his opinion make their evidence unreliable and we think that he entirely misled himself by the assumption that the male part of 100 millions of people of this country habitually beat their wives. The learned single Judge of this Court has followed entirely the view taken by Mr. Mehta holding Mr. Mehta's decision on the question of the credibility of the witnesses to be a question of fact to which he can take no exception. We disagree with that view, specially when we find that the whole of the judgment of Mr. Mehta is coloured by the assertion of the habitual practice of beating. Moreover, we are inclined to think that passage of the learned single Judge in which he says:

Unless the assault is of such a nature as to endanger the safety of life or person of the wife, it cannot amount to legal cruelty,

takes rather too narrow a view of the present day regard for the position of women. We prefer to state the rule in this way: that if a wife goes into the witness-box and satisfies the Court that she has been subjected to beatings at irregular intervals extending over a considerable period which have been given to her through no fault of her own and that as a result thereof she is in a condition of perpetual anxiety, apprehension and unhappiness, that in itself is sufficient for a Court to say that it would offer no relief to a husband whose conduct is of that character. In this case it is conceded that this young girl is a gentle creature and a girl of good character, and the very fact that contrary to custom she ran away from her husband and went to the protection of her mother is in itself some evidence as to the impression which this continuous ill-treatment had made upon her.

6. We, therefore, restore the decree of the Additional Munsif with costs in all Courts.