

Vimla Yadav Vs. Gopal Yadav

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Court : Madhya Pradesh

Decided On : Jan-22-2004

Reported in : II(2004)DMC189

Judge : A.K. Awasthy, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13(1)

Appeal No. : First Appeal No. 251 of 2001

Appellant : Vimla Yadav

Respondent : Gopal Yadav

Advocate for Def. : Ashish Gupta, Adv.

Advocate for Pet/Ap. : S.A. Dashore, Adv.

Disposition : Appeal dismissed

Judgement :

A.K. Awasthy, J.

1. Appellant/petitioner has filed this appeal under Section 28 of the Hindu Marriage Act against the judgment and decree dated 13.2.2001 in Matrimonial Case No. 92/99 passed by IXth Additional District Judge Indore whereby dismissing the petition for the dissolution of marriage filed on the ground of cruelty and desertion.

2. The admitted facts of the case are that the marriage in between the appellant and the respondent was performed on 13.5.1994 at Indore according to Hindu Rites and Customs and that they have no issue from the wedlock.

3. It is also not in dispute that the appellant petitioner has lived with her husband for about 2 years in the matrimonial house.

4. The case of the petitioner is that her husband was in habit of picking up the quarrels on petty matters and he used to physically assault her and under the influence of liquor he was in habit of harassing and threatening her that he will perform the second marriage. That the defendant used to pressurize her to bring the cash and kinetic Honda, etc. from her father's house and when she was not able to fulfil his greed, then she was ousted from the house on 1.4.1996. It is further alleged by the petitioner that her husband habitually lives in company of the women of loose character and he is in habit of consuming the liquor. The petitioner has alleged that husband is working in a transport company and earning Rs. 5,000/- per month and that her husband is in possession of his ornaments and belongings which he has not returned although the notice was given by her to the husband. The petitioner has prayed for dissolution of marriage on the ground of cruelty and desertion.

5. The defendant has denied the allegation of beating his wife or treating her with cruelty or pressurizing her to bring the dowry from her parents. It is alleged by the defendant that his wife habitually insulted and misbehaved with him and his wife has filed the petition making the false allegation, It is further alleged by the defendant that he is a poor man and simply a labourer while his wife is earning about Rs. 30/- per day by doing the work of stitching the cloths.

6. The learned Trial Court after framing the issues has examined the petitioner as P.W. 1, Girjashanker P.W. 2, Rajesh Yadav P.W. 3 and from the opposite side Gopal D.W. 1, Smt. Lakhpatibai D.W. 2, Smt. Krishnabai D.W. 3 and the petition was dismissed holding that the grounds of desertion and cruelty were not proved by the petitioner.

7. The appellant has assailed the impugned judgment and decree on the ground that the learned Trial Court has not properly appreciated the evidence on record and as such, the impugned judgment and decree be reversed and the marriage be dissolved on the ground of cruelty and desertion.

8. Smt. Vimlabai P.W. 1 has stated that after 6 months of the marriage, her husband started assaulting her and he was in habit of coming late in the house after taking the liquor. Vimlabai P.W. 1 has further stated that in the month of April, 1996 her husband has ousted her from the house and she was not allowed to carry her ornaments and other belongings, Vimlabai P.W. 1 has admitted that she has not given any notice or made the report to the police or her neighbours about the ill-treatment by her husband. The petitioner has also not disclosed the required details of her beating, such as the month in which she was beaten and the manner she was assaulted. The petitioner has examined Girjashanker P.W. 2 and Rajesh Yadav P.W. 3 and they have also not stated that the petitioner was ill-treated before them by her husband. As against This, from the statement of the defendant and two witnesses Smt. Lakhpatibai D.W. 2 and Krishnabai D.W. 3, who were neighbours of the defendant, it is clear that the behaviour of the defendant with his wife was not cruel. The allegations of the petitioner regarding cruelty are sweeping in nature and not supported by any documentary or oral evidence. Consequently, the learned Trial Court has not committed any error in dismissing the petition.

9. The appeal is devoid of merits and it is, hereby, dismissed.