

**Tarlochan Singh Vs. Jit Kaur**

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**Court :** Punjab and Haryana

**Decided On :** Oct-30-1985

**Reported in :** AIR1986P& H379

**Judge :** S.S. Sodhi, J.

**Acts :** [Hindu Marriage Act, 1955](#) - Sections 12(1) and 13(1)

**Appeal No. :** F.A.F.O. No. 87-M of 1985

**Appellant :** Tarlochan Singh

**Respondent :** Jit Kaur

**Judgement :**

1. The controversy in appeal here is with regard to the mental condition of the wife--Jit Kaur. It arises in the context of the annulment of marriage as sought by the husband Tarlochan Singh under S. 12(1)(b) and in the alternative a decree for divorce under S. 13(1)(iii) of the [Hindu Marriage Act, 1955](#).

2. Tarlochan Singh and Jit Kaur were married on July 18, 1982 and it was only for a short period that they lived together. It being 10 days as per the husband while according to the wife it was after four months that she left.

3. It was the case of the husband Tarlochan Singh that his wife was insane both before and after the marriage and this fact was deliberately concealed from him.

During the ten days that Jit Kaur lived with him, he stated that she was violent, tore her clothes, attempted to kill herself and injure others. As he could not control her, he sent for her parents and brothers who then came and took her away. A plea was also raised that she had been admitted in the Mental Hospital, Amritsar in 1980 where she was stated to have been treated for insanity.

4. As regards her admission in the Mental Hospital, the reply of Jit Kaur, as put forth in the return was that she had 'once had a minor attack', but was cured after treatment. That husband's version of her insanity and abnormal behaviour was described as false and concocted. On her part Jit Kaur levelled the charge of demand of dowry against Tarlochan Singh by pleading that she had been harassed and tortured and was later turned out of the house in order to pressurise her to bring more dowry.

5. The important evidence here is of P.W. 2 Dr. Ravinder Mohan Sharma and R.W. 1 Dr. Sarita Bajaj, who deposed to the treatment of Jit Kaur at the Mental Hospital, Amritsar in 1980. The history of Jit Kaur, as recorded by Dr. Ravinder Mohan Sharma, on information given by her brother, reads as under:--

'Irrelevant talking and laughing to self for the last 11/2 months.

Past illness--21/2 years ago was sick for three months, was treated with 2 or 3 E.C.T. and not normal in between, was restless and temperamental.

Family history: Father and elder sister were sick. Precipitating factor--nil.

History of present illness: For the last 11/2 months, patient is quarrel some and sleeping less, gets up at night and drinks milk or words and eats. Eating more. Talking to self. Spontaneously laughs and rarely weeps. Abusing others. Throws the utensils after drinking water or milk in it Bowels and bladder is regular. Personal hygiene is maintained--does less of household works.'

6. According to Dr. Ravinder Mohan Sharma, Jit Kaur was admitted in the Hospital on Nov. 26 1980 and was discharged about a week later on Dec. 3, 1980. Dr. Sarita Bajaj deposed that during her stay in the hospital, Jit Kaur was administered electric shocks on alternate days on four separate occasions. It is pertinent to note

that Jit Kaur was discharged from Hospital on request and not as fully cured. Dr. Sarita Bajaj made a note at that time in the following terms:--

'Attention aroused and sustained. Talk irrelevant and incoherent. No insight, talks excessively.'

Dr. Ravinder Mohan Sharma also deposed that the behaviour of Jit Kaur was abnormal at the time of her discharge.

7. A reading of the testimony of Dr. Sarita Bajaj would also show that not only was Jit Kaur in an acute condition at the time of her admission, but she apparently had a history of insanity as it was stated that she had suffered her first attack 21/2 years before her admission in the hospital. There was indeed a family history of insanity with both her father and eldest sister having suffered from mental sickness.

8. Before proceeding further, the omission of the wife to produce other medical evidence to show her present mental state must indeed be noted. This cannot but be construed as a telling circumstance against her and all the more so when considered in the light of the testimony of her husband P.W. 3 Tarlochan Singh corroborated by that of her mother-in-law P.W. 4 Harbhajan Kaur. They both deposed to the abnormal behaviour of Jit Kaur during the short period that she lived in their house. The husband in this behalf narrated the incident of her running out of the house and tearing the clothes and then of her sleeplessness at night and her singing songs and crying and laughing without reason or cause at all odd hours.

9. Jit Kaur was very emphatic in deposing that she was mentally stable. She admitted that she had been treated at the hospital at Amritsar, but stated that she was fully cured about a month after her discharge from there. It is significant to note, however, that she was unable to recall why she had been admitted there or of being given any electric shocks there.

10. As is well known, schizophrenia is curable only in rare cases and medical authorities rate the chances of its recurrence rather high Henderson and Gillespie

in their Text Book of Psychiatry (1969 Edn) at page 283, observe:--

'..... Recoveries seldom occur with complete insight and the patient who becomes re-employable is seldom able to return to his own job, something simpler being required.'

xx xx xx xx xx '....Schizophrenics have low marriage rates and low fertility rates, and few children are born to schizophrenics after the onset of their illness. If medical opinion is sought, one should usually advise a person who has had a schizophrenic breakdown not to marry, it is true that an understanding spouse might greatly help such a sensitive and predisposed individual, but child-bearing and child rearing would be liable to bring stresses which would prove insupportable.'

11. In a case like the present, therefore, where the wife has been found to be suffering from schizophrenia and husband and wife have lived together for only a short period, it is difficult to visualise an atmosphere of conjugal bliss, so necessary to ensure continual sound mental state of the wife, even if she is assumed to be of that state now. The husband would always be under the apprehension of the wife suffering a relapse. In such a situation, it would not be reasonable to expect the husband to live with his wife and lead a normal life.

12. The words 'reasonably expected' as used in S. 13(1)(iii) of the [Hindu Marriage Act, 1955](#), as observed by K. S. Tiwana, J. in *Inderjit Singh v. Smt. Amarjit Kaur*, 1979 Marriage LJ 107.

'are to be liberally construed and the question involved is to be determined not on a wire drawn specification, but on tangible and established facts. The reactions of a reasonable person to the circumstances are to be seen.'

So considered, there can be no escape from the conclusion that the husband cannot reasonably be expected to live with his wife whose mental state as stands spelt out by the evidence on record must clearly be held to be at least of the state requisite of justify a decree for divorce, if not annulment of the marriage.

13. Further, it would appear that the husband was kept in the dark about the true mental condition of his wife and he came to know of it only after his marriage. The marriage between the parties was arranged by their relations. As is well known, during negotiation for such marriages, relations of the parties meet and do get the chance to talk and get to know each other, but for the parties themselves little occasion is provided to meet and get acquainted. What is more arranged marriage can lend themselves as a cover for misrepresentation or non-disclosure of material facts relevant to the parties resulting in matrimonial frauds. Instances of falsehood or suppressions regarding age, chastity or previous marriages and the mental condition of the parties are not unknown. This being so, where by an arranged marriage, a normal healthy person is bound in matrimony to one with a history of mental ailment, as in the present case, it must indeed raise a presumption, rebuttable no doubt, of matrimonial fraud. It is reasonable to assume that in the absence of special reasons or circumstances, no one would willingly consent to marriage except to a person physically and mentally fit. No such special reasons are forthcoming in the present case.

14. On behalf of the wife, it was no doubt said that the husband and his relations had been informed of her previous mental ailment and that she had been treated in the Mental Hospital at Amritsar, but it is significant to note that no suggestion was made either to the husband or to his mother, when and by whom such information was conveyed to them. It was only when Jit Kaur came into the witness box that she stated that her uncle Dattar Singh has told her husband and his relations of her mental condition. The name of Dattar Singh, in this connection, was never suggested to them. R.W. 4 Dattar Singh corroborated Jit Kaur in this behalf, but the same criticism has to be levelled against his testimony too. In the circumstances, it must indeed be held that Tarlochan Singh was induced into marrying Jit Kaur without knowing her true mental condition.

15. The allegation that the husband and his relations had turned out the wife on account of dowry is clearly without substance. There is no material on record to show what was given in dowry and what was demanded when and from whom. Seen in the context of the circumstances of this case, this allegation appears to have been levelled merely as a counter-blast, but is otherwise without substance

and must accordingly be dismissed as such.

16. Considered in their totality, the circumstances of the case, in the light of the evidence on record, clearly entitled Tarlochan Singh to the relief sought and he is accordingly hereby granted a decree for divorce as prayed for by him. This appeal is accordingly accepted. There will, however, be no order as to costs.

17. Appeal accepted.

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