

**Sachu Sharma Vs. Amardeep Singh**

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**Court :** Punjab and Haryana

**Decided On :** Feb-07-2006

**Reported in :** II(2006)DMC685; (2006)144PLR86

**Judge :** K.S. Garewal and; Pritam Pal, JJ.

**Acts :** [Special Marriage Act, 1954](#) - Sections 24, 25 and 29

**Appeal No. :** First Appeal from Order No. 240-M of 2005

**Appellant :** Sachu Sharma

**Respondent :** Amardeep Singh

**Advocate for Pet/Ap. :** R.N. Moudgil, Adv.

**Disposition :** Petition allowed

**Judgement :**

**K.S. Garewal, J.**

1. Sachu Sharma of Kathua (Jammu & Kashmir) had filed a petition Under Section 24 and 25 of the [Special Marriage Act, 1954](#) for annulment of the certificate of marriage dated March 17, 2004 issued by the Marriage Officer-cum-Deputy Commissioner, Gurdaspur. The petition was however, dismissed by learned District Judge and the petitioner has come in appeal.

2. According to the petitioner she never married Amardeep Singh, they never lived or cohabited together as husband and wife either before or after the registration of the marriage on March 17, 2004. The petitioner never consented to the marriage. She had a friendly relationship with Amardeep Singh but she never intended to marry him. She was made to sign some papers in the office of the Marriage Officer, Gurdaspur. Amardeep Singh also threatened her that if she did not sign the papers she would be disfigured and her father would be eliminated. Amardeep Singh also threatened to commit suicide if she did not turn up at the Marriage Office to sign the papers. On the basis of these pleadings an application for annulment of marriage was filed under the provisions of Section 24 and 25 of the [Special Marriage Act, 1954](#). Notice was issued to Amardeep Singh but he did not put in appearance despite service and was proceeded against exparte. Suchu Sharma led exparte evidence of herself, Reader Sukhdev Singh (PW-1), Finder Pal Singh (PW-3) and Shamsheer Singh (PW-4). However, the learned District Judge did not accept the contentions of the petitioner and dismissed the petition on August 5, 2005.

3. According to the learned Counsel for the petitioner the respondent was proceeded against exparte before the trial court and had been served for January 10, 2006 in this appeal. The respondent did not appear despite service. Therefore, learned Counsel prayed that the respondent's presence in appeal may be dispensed with since he was exparte before the trial court. This prayer was allowed and the respondent's presence was dispensed with.

4. According to the learned Counsel for the petitioner, the statutory and essential formalities of marriage under Special Marriage Act were absent in the present case, therefore, the marriage was void. It was also argued that the learned District Judge has erred in referring to Section 29 of the Special Marriage Act to dismiss the petition because the petition for annulment had been filed before the expiry of one year from the date of issue of certificate and the petitioner had not applied for permission to present the petition before the expiry of one year the said period.

5. In the present case the provisions of Section 29 may not at all be applicable because the petitioner had successfully demonstrated that her signatures had

been obtained by fraud and she had never given her free consent. Reference may be made to Jolly Dass (Smt) alias Moulick v. Tapan Ranjan Dass 1994 4 S.C. 363. In Jolly Das's case the petitioner had pleaded that she was only 19 years of age while the respondent was more than 40 and taught music to the petitioner's sister. Moreover, that case was contested one. Trial Court after considering the evidence of both the parties, had held that the consent for marriage had been obtained by fraud and the marriage was void. This finding was upheld by the Supreme Court.

6. In the present case there has been no consent, therefore, evidence of the petitioner that her consent had been obtained by fraud should not have been completely disregarded by saying that her evidence did not inspire any confidence. The petitioner's case has been briefly set out above and it can be safely said that she has successfully established that her consent was obtained by fraud. Furthermore, even if a year had not elapsed since the date on the marriage certificate when the petition for annulment was filed that period was short only by 2 days. It is now 1 year and 11 months after the certificate as issued. We hold that the petitioner had successfully established that her consent was obtained by fraud. Petition for annulment of marriage was premature only by 2 days and ought to have been entertained by the court after granting the requisite permission.

7. This appeal deserves to be allowed and it is ordered accordingly. The judgment of the learned District Judge, Gurdaspur is set aside and the petition for annulment of marriage is accepted. Marriage between Sachu Sharma and Amardeep Singh on the basis of the marriage certificate dated March 17, 2004 is hereby annulled on the ground of fraud.