

Kulwinder Kaur Vs. Hari Singh

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Court : Punjab and Haryana

Decided On : Jan-03-1997

Reported in : (1997)117PLR205

Judge : V.K. Jhanji, J.

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

Appeal No. : First Appeal from Order No. 115-M of 1989

Appellant : Kulwinder Kaur

Respondent : Hari Singh

Advocate for Def. : S.C. Pathela, Adv.

Advocate for Pet/Ap. : Ajay Pal Singh, Adv.

Disposition : Appeal dismissed

Judgement :

V.K. Jhanji, J.

1. This first appeal has been directed against judgment dated 7.4.1989 passed by the Additional District Judge, Faridkot, dismissing the petition filed by wife under Section 13 of the Hindu Marriage Act, for dissolution of the marriage.

2. Kulwinder Kaur, appellant herein, filed petition for divorce under Section 13 of the Hindu Marriage Act against her husband, Hari Singh alleging that his age is 60/65 years whereas she is aged 22 years, and from the very day of the marriage, the respondent cursed the appellant that she had brought less dowry. She averred that she showed her inability to bring more dowry. On which respondent used to maltreat and beat her. After two months of the marriage, respondent asked the appellant to have sexual inter course with his friends and other villagers, to which she flatly refused. She alleged that about 2-1/2 years before the filing of the petition under Section 13 of the Act, respondent gave severe beatings to the appellant and turned her out of his house. When the appellant narrated about this to her parents, a Panchayat was taken to the village of respondent for making request to the respondent to keep the appellant, but the respondent refused to do so. In this manner, appellant alleged that the respondent treated her with cruelty and deserted her without any reasonable cause. In response to these allegations, respondent in his written statement averred that he is 48/49 years of age whereas appellant is 30 years of age. He averred that since he could not marry at a proper age, he was in need of a life partner and a lady to look after him and his property. Being a needy person, he married the appellant. At the time of marriage, he gave gold ornaments weighing 10 Tolas to the appellant. Thereafter, appellant forced him to transfer 35 kanals of land in her favour through a court-decree. He averred that after the land was transferred in the name of the appellant, her attitude towards him changed completely and she stopped doing house-hold work and started staying with her parents, thereby breaking her matrimonial obligations. He further averred that after transfer of the land in her favour, appellant struck a deal to sell the said land to one Gamdoor Singh and received Rs. 30,000/- from him as earnest money, but thereafter by befooling Gam-door Singh, she sold the land to another villager, resulting into litigation between the persons with whom she had entered into agreement to sell. He denied that he ever demanded any dowry or gave any beatings to her. He rather stated that he was always ready and willing to keep the petitioner in his house and was even willing to take her from the court premises. In iegard to the averment that appellant took a Panchayat to his home, he stated that no Panchayat ever came to his village. On the basis of pleadings of the parties, the learned trial Court framed the following issues:-

1. Whether the respondent has deserted the petitioner for a continuous period of two years prior to the filing of the application?. OPP.

2. Whether the respondent has treated the petitioner with cruelty If so, its effect? OPP.

3. Relief

Both the issue being inter-connected were taken up together and on the basis of evidence brought on record by the parties, the same were decided against the appellant. Hence, the present first appeal by the appellant-wife.

3. Learned counsel for the appellant has contended that the learned trial Court without appreciating the pleadings and evidence on record has come to a wrong conclusion and given the finding on conjectures and surmises. He contended that the appellant has proved on record that respondent had maltreated the appellant on account of her having brought insufficient dowry. As against this, counsel for the respondent submitted that on the basis of evidence and pleadings, trial Court has rightly decided both the issues against the appellant and therefore, no interference is called for.

4. After hearing the learned counsel for the parties and going through the record, I am of the view that there is no merit in the appeal. Appellant in support of her case appeared as PW-1 and stated that the respondent maltreated her on account of less dowry and she was turned out of the house after two months of the marriage. She also stated that respondent was bringing undesirable persons to the house after two months of the marriage. In her statement, she gave no particulars of the dowry she brought in marriage. She also failed to state that the respondent compelled her to have sexual inter course with his friends or other villagers. Rather she admitted that after marriage, respondent transferred land measuring 4-1/2 killas in her name. She also admitted that she sold that land. When it was put to her in her cross-examination that if she ever disclosed these facts to her cousin who was married in the village. She stated that she did not tell anything to her cousin sister. PW-2, Mal Singh who appeared in support of her case stated that one year and three months back, he went as a member of Panchayat to the house

of respondent, but the respondent refused to keep the appellant as she quarrelled with him and they returned. He has not stated that the appellant ever told him that she was turned out of the house on account of her bringing insufficient dowry or that she was given any beatings. On the basis of this evidence, learned trial Court rightly concluded that version of the appellant that respondent was demanding more dowry, is not proved. I am also in agreement with the finding of the learned trial Court that the version of the appellant that respondent was asking her to submit herself to his friends etc. is a made-up version and is not proved. The very fact that the appellant sold the land immediately, after it was transferred to her, for a sum of Rs. 65,000/- and that she was not ready to live with the respondent on any condition, goes on to prove that the intention of the appellant was only to grab the property of the respondent.

Accordingly, this appeal being without a merit shall stand dismissed.

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