

Meena Devi Vs. Suraj Parkash

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Court : Punjab and Haryana

Decided On : Sep-28-1993

Reported in : (1994)108PLR306

Judge : A.P. Chowdhri, J.

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

Appellant : Meena Devi

Respondent : Suraj Parkash

Advocate for Def. : V.B. Aggarwal, Adv.

Advocate for Pet/Ap. : Y.P. Malik, Adv.

Disposition : Appeal allowed

Judgement :

A.P. Chowdhri, J.

1.This appeal is directed against judgment and decree dated 2.11.1987, of the District Judge, Karnal, dismissing appellant's petition under Section 13 of the [Hindu Marriage Act, 1955](#), hereinafter referred to as the Act.

The appellant-petitioner Smt. Meena Devi was married to Suraj Parkash respondent on February 27,1982 at Panipat according to Hindu rites. The couple

lived as husband and wife at Panipat. Thereafter they shifted to Ludhiana in connection with the employment of the husband. They returned to Panipat. No child was born to the couple. The case of the wife is that after one year of marriage, the respondent started harassing her in order to extract a sum of Rs.2,000/- and a bicycle. The petitioner's father being a person of modest means could not satisfy the above demand. What is more, the respondent-husband was given to bad habits like drinking and gambling. Ultimately the respondent turned out the petitioner from the matrimonial home on September 5, 1985, and thereafter she has been living at the sufferance of her parents. It was further pleaded that the respondent, knew one Dharam Pal constable posted in Police Station Panipat. With his help the respondent got summoned the petitioner and her parents on a number of occasions to the police station and they were made to sit there, resulting in great mental agony to the petitioner and here parents. Ultimately, in order to avoid such a situation, the petitioner filed a complaint dated December 8, 1985, ExhibitP-1, to the Deputy Commissioner and it was only thereafter that harassment through the police caused, by the respondent stopped. The petitioner prayed for dissolution of her marriage with the respondent on the ground of cruelty.

2. The petition was contested. The main averments were controverted. It was pleaded by the husband that, in fact, it was the petitioner who had herself left the matrimonial home and gone away to her parents house, which was at a distance of about one furlong at Panipat. He further stated that the petitioner had instituted a complaint under Sections 406/498A of the Indian Penal Code, but the same was dismissed in default on January 31, 1986. She also instituted an application- under Section 125 of the Code of Criminal Procedure in November 1985, which was pending. It was -further pleaded that the couple had gone to Ludhiana in March 1984.in connection with employment of the respondent and they lived there till March/April 1985 when they returned to Panipat. After coming back from there, the petitioner insisted that the respondent lived separately from his parents or with her own parents. The respondent was not willing to do so but ultimately agreed and lived with his parents-in-law. The behaviours of his parents-in-law was not good towards him and, therefore, after a few months he left their house and started living separately. This was not to the liking of the petitioner's parents and this

started a chain of litigation. The respondent added that he was always ready and willing to keep the petitioner with him.

3. In the replication filed by the wife, the material averments made in the written statement were controverted.

4. The learned trial Court framed the following issues:-

(1) Whether the respondent's behaviours towards the petitioner was cruel as alleged OPP.

(2) Whether the petitioner has concealed important facts as pleaded in para No.2 of the preliminary objections of the written statement and if so to what effect OPR.

(3) Relief.

Under issue No. 1 it was held that the petitioner failed to prove the ground of cruelty against the respondent. Issue No.2 was decided against the respondent as having not been pressed. In view of the decision of issue No.1, the petition was dismissed, leaving the parties to bear their own costs Aggrieved by the decision, the petitioner-wife has preferred this appeal.

5. In a support of her case, the petitioner appeared as PW-1 and deposed about the material allegations made by her in the petition. She sought to corroborate her statement by examining her father Jai Parkash PW-2 and a Colleague of her father Piare Lal PW-3. She also got summoned and produced complaint Exhibit P-1 dated December 8, 1985, made by her to the Deputy Commissioner. The said complaint was entrusted for enquiry to Dy. S.P. who made his report Exhibit P-2 dated February 4, 1986. The averments made in the said complaint corroborate the allegations made in the present petition with regard to the harassment, demand of dowry in the form of Rs. 2,000/- and a bicycle and that the petitioner was turned out of the house in September 1985.

6. On behalf of the respondent were examined Ishwar Singh RW-2, respondent's mother Smt. Dharmo Devi RW-3 besides the respondent, who appeared as RW-1. The record keeper also proved the order dated January 31, 1986, whereby the

petitioner's complaint under Sections 406/498A of the Indian Penal Code Exhibit R-1 was dismissed for default.

7. The reason for the break up suggested by the wife was that the respondent was given to bad habits. He demanded dowry and as she was unable to satisfy his demand, she was turned out of the house in September 1985. As stated, above, this suggestion stands proved by the testimony of Meena Devi corroborated by that of her father Jai Parkash as also complaint ExhibitP-1 made by the petitioner to the Deputy Commissioner in December 1985. As against the above, the reason suggested by the respondent why the couple started living separately is that the petitioner insisted either that they live separately from the boy's parents or in the alternative the respondent lives with petitioner's parents. In the facts and circumstances, this plea cannot be accepted. The petitioner stated that she has one brother and two more sisters. There is ample material on record to show that both the parties are person of very meagre resources. Piare Lal PW-3 is a labourer in a factory and he has described Jai Parkash, father of the petitioner, as his colleague working with him. The petitioner herself has read up to 5th Class. The point is that it is not a case in which the petitioner's father may be having no male child and needing someone to manage his property or business. In fact, both the parties appear to belong to economically weaker section of the society. In such situation, keeping daughter and son-in-law can be more of a liability than of assistance and, therefore, the above plea cannot be accepted. It may also be pointed out that it is rather rare case that a Hindu wife comes forward seeking dissolution of marriage. This fact goes a long way to indicate that what is alleged by the petitioner must be substantially true and she is left with no alternative except to seek a dissolution of her marriage with the respondent by filing the present petition.

8. Mr. R.L. Gupta, learned counsel for the respondent, made a two-fold submission. He contended that the allegations with regard to alleged cruelty were in most general terms and did not, in fact, made out any ground of cruelty and, secondly, that she failed to depose that the alleged acts of the husband had caused her mental suffering. I am unable to accept this contention. The various acts of cruelty alleged by the wife cannot be described as of a general nature. The

allegations include (a) that the husband started physically beating the wife; (b) that he demanded Rs.2,000/- and a bicycle to be brought by the wife from her parents, (c) that the husband was a drunkard and a gambler, (d) that she was turned out of the matrimonial home on September 5, 1985 and no effort was made to bring her back; and (e) that the husband had her and her parents called to the police station through one constable, who was known to him, on four different occasions, when they were made to sit in the police station and humiliated. This was stopped only when she filed a complaint to the Deputy Commissioner. I do not think that the above allegations can be described as vague, or general. With regard to the second submission, it may be pointed out that there is no magic in certain words. What has been specifically alleged and alluded to in the earlier part, amounts to acts of cruelty. It will not become cruelty only on the utterance of the words that the aforesaid acts had caused mental pain or suffering to the petitioner.

9. For the foregoing reasons, the appeal deserves to be allowed. It is accordingly allowed and the marriage between the parties is hereby dissolved.