

Ramesh Vs. Rajpati

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Court : Punjab and Haryana

Decided On : Jan-22-2003

Reported in : AIR2003P& H316; I(2004)DMC521; (2003)135PLR761

Judge : Viney Mittal, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13 and 20

Appeal No. : F.A.O. No. 30 of 2001

Appellant : Ramesh

Respondent : Rajpati

Advocate for Pet/Ap. : Jitendra Sharma, Adv.

Disposition : Petition dismissed

Judgement :

Viney Mittal, J

1. Rajpati-respondent in the present appeal filed a petition for dissolution of marriage between her and Ramesh (the present appellant). In the petition which was filed by her on September 1, 1999, it was stated by her that the marriage between parties had been solemnised about five years ago at Hissar. It was further pleaded by her in the petition that at the time of her marriage she was 14 years of age. It was further pleaded that she had never visited her husband's

house and no cohabitation took place between the parties. The petitioner after having attained the age of 18 years, a Panchayat was convened to settle Smt. Maina, elder sister of the petitioner who was married with the elder brother of the husband. The elder brother of the husband refused to keep the elder sister of the petitioner. At that time the wife had repudiated her marriage with the appellant-husband in the presence of the aforesaid Panchayat. It was stated by her in the petition that in fact the marriage had been repudiated when she was about 17 years of age.

2. Upon notice of the divorce petition given to the respondent-husband, he appeared and contested the same by filing a written statement. The averments made in the divorce petition were contested. It was denied by him that the wife was minor at the time of solemnisation of the marriage between the parties. On the other hand it was stated that the wife was marriageable and in fact she was more than 19 years of age. It was also pleaded by the husband that the wife and her elder sister had filed respective divorce petitions with an ulterior motive to get divorce on false and frivolous grounds.

3. During the course of proceedings before the learned trial Court, an application under Section 24 of the Hindu Marriage Act was filed and the husband was directed to make payment of an amount of Rs. 800/- per month, towards maintenance pendente lite and an amount of Rs. 1500/- towards litigation expenses vide order dated August 9, 2000. The aforesaid order was confirmed by this Court in revision. In spite of the aforesaid orders, the amount of pendente lite and litigation, expenses were not paid by the husband. Consequently, the defence of the husband was struck off vide order dated October 5, 2000.

4. Thereafter, the respondent-wife led her evidence: She herself appeared as PW-1 and reiterated the allegations in the petition. Her father Risal Singh also appeared as PW-2 and one Mange Ram as PW-3. All the witnesses deposed that the petitioner was about 14 years of age at the time of marriage and that she had repudiated her marriage in a Panchayat held about three years ago, when the wife was merely 17 years of age.

5. As noticed by me above, the defence of the appellant-husband was struck off. In these circumstances, the written statement filed by him was left out of the consideration. In this view of the matter, we have only the divorce petition filed by the wife and the evidence led by her in support of her pleas, for taking into consideration, for the adjudication of the controversy in question.

6. The learned trial Court vide judgment dated December 1, 2000 accepted the plea of the wife and dissolved the marriage between the parties by granting the decree of divorce. Now the husband has filed the present appeal.

7. I have heard Sri Jitendra Sharma, learned counsel appearing for the appellant and with his assistance have also gone through the record of the case.

8. It is argued by Shri Sharma that there is no evidence on record to support the plea raised by the appellant, inasmuch as, no evidence has been produced on record to show that the wife was less than 15 years of age at the time of marriage.

9. I have given my thoughtful consideration to the pleas raised by the learned counsel for the appellant and in my considered opinion the same are not borne out from the record. The wife has herself appeared as PW-1 and has stated that she was about 14 years of age at the time of solemnisation of her marriage. Her father Risal Singh has also appeared as PW-2. The aforesaid Risal Singh has categorically stated that at the time of the marriage Rajpati was 14 years of age; To the similar effect is the statement made by PW-3 Mange Ram.

10. There is another angle to look at the matter. As at present, we have on the record of the case only the petition filed by the respondent-wife under Section 13 of the Hindu Marriage Act. The aforesaid petition has not been controverted, inasmuch as the written statement filed by the respondent has already been kept out of the consideration. As per the provisions contained in Section 20(2) of the Hindu Marriage Act the statements contained in every petition under the Act shall be verified by the petitioner or some other competent person in the manner required by law for the verification of the plaints, and may, at hearing, be referred to as evidence. In this view of the matter, the petition duly verified by the respondent-wife under the provisions contained in Section 20(2) of the Hindu

Marriage Act, is also to be treated as substantive evidence. Thus, the case of the respondent-wife is fully supported by the evidence produced by her.

11. Taking into consideration the pleas raised by the wife as well as the evidence produced by her, I do not find there is any merit in the present appeal. Consequently, the appeal is dismissed. There shall be no order as to costs.

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