

Jasbir Kaur Vs. Beant Singh

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Court : Punjab and Haryana

Decided On : Mar-04-2003

Reported in : (2003)135PLR589

Judge : Vinay Mittal, J.

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

Appeal No. : First Appeal From Order No. 120-M of 2001

Appellant : Jasbir Kaur

Respondent : Beant Singh

Advocate for Def. : V.K. Kataria, Adv.

Advocate for Pet/Ap. : D.K. Kaushal, Adv.

Disposition : Appeal dismissed

Judgement :

Vinay Mittal, J.

1. The present appeal has been filed by Smt. Jasbir Kaur wife challenging the judgment dated March, 22, 2001 passed by the learned Additional District Judge, Faridkot whereby the marriage between the parties, namely the present appellant Smt. Jasbir Kaur and respondent Beant Singh has been ordered to be dissolved

by a decree of divorce.

2. The petition under Section 13 of the Hindu Marriage Act was filed by the respondent-husband (hereinafter referred to as husband) for dissolution of their marriage. It was stated in the petition that the parties were married on June 2, 1989 and after the marriage they lived and cohabited together as husband and wife at village Rori Kapura, Tehsil Jaitu, District Faridkot. Two sons, namely, Gurbhajan Singh and Harbhajan Singh who were six and four years at the time of filing of the petition respectively, were born out of the wed-lock. Both the aforesaid sons are now living with the husband.

3. In the month of June 1994, the father of the husband died and he came on leave for the one month in July 1994. He started living separately from his younger brother Baldev Singh in a separate house at village Rori-Kapura. The case of the husband is that it was agreed at that time that his mother would live with him. It is the further case of the husband that he came on leave in the month of February/March 1995 and thereafter the respondent-wife (hereinafter referred to as wife) started pressing that the mother of the husband should not live with them. The husband tried to make the wife understand that it was in the interest of both the parties to have the old mother in the house as he remained on duty away from the village. However, the wife started misbehaving and abusing the mother of the husband.

4. The husband was serving in BSF and used to remain on duty and away from the village because of that. Again when the husband came on leave in the month of May/June 1996, the wife started misbehaving with him and refused to have any physical relationship with him. She started abusing filthy language against the husband and his mother and even attacked on him. The husband was saved with the intervention of Resham Singh and his wife. The husband narrates that when he came on leave in February 1997, the wife again started misbehaving and abusing him and he tried to pacify the wife but did not succeed in that. Many panchayats were also convened by him but ultimately nothing came out. It is further stated by the husband that since the month of February 1997 till the filing of the divorce petition, the minor sons had been living with him and were looked after

by his mother only. On that basis, it was maintained that since the wife treated the husband with cruelty and had given him unbearable mental torture, pain and suffering, therefore, the divorce petition was filed claiming the dissolution of marriage on the ground of cruelty.

5. Upon, a notice of the petition, the wife appeared. She filed a written statement contesting the claim made by the husband. Various averments made by the husband in the petition were denied. It was maintained by the wife that she always behaved properly with the husband, his mother and other members of his family. The factum of any attack by her on the husband was also denied.

6. However, in the written statement the wife stated that she had seen the husband with his younger Bhabhi (brother's wife) having physical relations with her to which she objected whereupon the husband gave abuses to her saying that he could do whatever he liked in his own house. The wife further stated that she tried to make the husband understand that it was not good for him to have physical relationship with his own Bhabhi and the same would give wrong impression to the children but the husband instead of mending his ways started giving abuses, fist blows and slaps to her. The wife also claimed that two-three panchayats had been taken by her brother to the husband for making him understand but the same was also of no consequence.

7. The learned trial Court framed the issue and parties and their evidence.

8. After the conclusion of the evidence, the learned Trial Court on the basis of the record held that the wife had made wild, reckless and scandalous allegations against the husband which were not supported by any evidence. On the basis of the evidence, it was also held that the entire attitude of the wife had caused the husband mental cruelty and his reputation had been lowered in his village with the acts of wife. On that basis, a decree of divorce was passed by the learned Additional District Judge dissolving the marriage between the parties. Now the wife has felt aggrieved and filed the present appeal.

9. I have heard Shri D.K. Kaushal, the learned counsel for the appellant and Shri V.K. Kataria, the learned counsel for the respondent and with their assistance

have also gone through the record.

10. It is not in dispute that the wife while filing the written statement had levelled very serious allegations against the husband to the effect that he was having illicit relations with his own Bhabhi. However, the aforesaid allegations have merely been levelled in the written statement but there is absolutely no evidence led by the wife in support thereof. Such serious allegations without any basis and proof would actually amount to a cruelty in itself. The allegations of the kind noticed above and the allegations that the husband was living in an adultery with his own Bhabhi are very serious allegations. A bald statement made by the wife of support the above allegations cannot be treated to be a sufficient proof. It has been held in the case of Tapan Kumar Chakarborty v. Smt. Jyotsna Chakraborty, 1997(2) Hindu Law Report 19, that levelling of reckless and baseless allegations like adultery amount to cruelty qua the spouse against whom such allegations are levelled. In a similar situation even this court had taken an identical view in the case of Manjit Kaur v. Avtar Singh, 2001(2) Marriage & Divorce Judicial Reports 351. A similar view was taken by the Bombay High Court in the case Rajan Vacant Revankar v. Mrs. Shubha Rajan Revankar, AIR 1995 Bombay 246.

11. Shri D.K. Kaushal, the learned counsel for the appellant has submitted that the wife was an illiterate lady and subsequently she had filed an application before the learned trial court for withdrawing the allegations. It has also been submitted by the learned counsel that during the course of evidence no such allegation was levelled by the wife against the husband. On the other hand, Shri V.K.Kataria, the learned counsel for the respondent has submitted that the allegations levelled by the wife against the husband were of such serious and scandalous nature that the same itself constituted cruelty and, therefore, there was no question of the wife subsequently withdrawing the allegations. Shri Kataria has further pointed out that in the cross-examination of the wife, she has maintained that the allegations against the husband were not incorrect.

12. In these circumstances, I do not find any merit in the present appeal. Since allegations levelled by the wife against the husband are false and scandalous and not supported by any evidence and, therefore, constitute cruelty entitling the

husband to seek dissolution of the marriage. 13. Thus, finding no merit in the present appeal, the same is hereby dismissed.

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