

Vinod Kumar Sharma Vs. Nutan Sharma

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Court : Delhi

Decided On : Feb-28-1986

Reported in : 1986(11)DRJ204

Judge : Mahinder Narain, J.

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

Appeal No. : First Appeal No. 180 of 1984

Appellant : Vinod Kumar Sharma

Respondent : Nutan Sharma

Advocate for Pet/Ap. : K.L. Arya and; M.L. Lonial, Advs

Judgement :

Mahinder Narain, J.

(1) This is a husband's appeal against a judgment of Shri R.P. Gupta, Additional District Judge, Delhi, dated 21-7-1984.

(2) By that order, the petition for dissolution of marriage between the parties, filed by the husband on the grounds of cruelty and desertion had failed.

(3) There are many grounds on which the dissolution of marriage was sought. Inter alia, the grounds on which the dissolution of marriage was sought, were that that

the wife had been responsible for making complaints or getting the complaints addressed to the employers of the husband ; and to persons in authority and also to the police. The District Judge has found that the complaint made to the police does not amount to cruelty on the husband.

(4) Before me it is not disputed that these complaints which were made to the employers of the husband, i.e. to say Central Social Welfare Board, were made by the father of the wife, at her behest and at her instance. It is apparent that the father of the wife had identified himself with his daughter. The complaints were made at behest of the wife/daughter, and as such they would have the same effect as complaints made by the wife. These complaints which were made appear to have been made as parties' matrimonial life had to all intent and purposes come to an end. In normal course such complaints would be a harassment to a person against whom such complaints are made.

(5) The complaints to the employers also led to holding of a meeting-cum-enquiry against the husband. The employer however, did not take any action against the husband. Obviously, therefore, the employer was not satisfied about the nature and gravity of the complaints which have been made and found them to be baseless. The complaints can only be attributed to a desire to cause inconvenience, if not harassment to the husband.

(6) The court have had occasion to consider the effect of complaints made to the employer, to persons in authority, and to the police, in F.A.O. No 124/84 and *Shakuntala Kumari v. Om Parkash Ghai*, 1981 (1) Dmc 25 ; *N.C Dastane v. S Dastane*. : [1975]3SCR967 ; *Lajwanti Chandhok v. ON. Chandhok*, 1981 (II) Dmc 97 ; *Kiran Kapur v. Surinder Kumar*, 1982 Rlr (Note) 37 at page 36 ; *Sharda Nand Sharma v Kiran Sharma* : 28(1985)DLT32 ; *Girdhari Lal v. Santosh Kumari*. (1982) I Dmc 180; and *Jorden Dlangdoh v. S.S. Chopra* (1982) I Dmc 224.

(7) Such complaints, which are found to be baseless, and to have been made by one of the spouses, have in these cases led to a finding of cruelty against the person complained against. I see no reason why a complaint by a person other than the spouse, who has identified himself with the spouse on whose behalf or at whose behest he has complained, should not be equated to the spouse, and the

act of such a person be not deemed to be the act of the spouse. Here the person complained against wa the husband. I note from the judgment of the court below that none of these judgments have been noticed by him, and he is of the view that these complaints do not amount to cruelty.

(8) In view of the aforesaid judgments of this court, and of the Supreme Court there has to be a finding of cruelty by the wife towards the husband. She made complaints or got the complaints made to thee employers and the police which were found to be baseless on enquiry. Cruelty of the wife being established, the husband would be entitled to a divorce on that ground.

(9) In the circumstances the judgment of the Additional District Judge dated 21st July, 1984 cannot stand and the same is set aside and a decree of divorce granted against the wife, in favor of the husband. There will be no order as to costs.

(10) In view of the provisions of Section 27 of the Hindu Marriage Act, and in view of the value of the goods presented to the parties at the time of the marriage, regarding which orders are to be made under that provisions, a draft of Rs 30,000.00 has been paid by the husband to the wife in satisfaction of the claims under that section.

(11) This amount of Rs. 30,000.00 also covers the payment which would have been ordered to be made under the provisions of Section 25 of the Hindu Marriage Act regarding permanent alimony for herself, and for the son born to the parties, and the said amount of Rs. 30,000.00 includes the agreed amount settled between the parties.

(12) In view of payment of Rs. 30,000.00 having made in court, there is no outstanding claim between the parties under Section 25 or 27 of the Hindu Marriage Act and all claims stand settled between the parties.

(13) The appeal stands disposed of.