

Sobha Bhanot Vs. Ranbir Bhanot

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Court : Delhi

Decided On : Dec-14-1984

Reported in : 1986RLR37

Judge : T.P.S. Chawla, J.

Acts : Hindu Marriage Act - Sections 13; [Code of Civil Procedure \(CPC\), 1908](#) - Order 6, Rule 7; Evidence Act - Sections 73

Appeal No. : First Appeal No. 155 of 1980

Appellant : Sobha Bhanot

Respondent : Ranbir Bhanot

Advocate for Pet/Ap. : Amarjit Singh,; Gobind Mukhoty,; P.K. Gupta and;

Judgement :

T.P.S. Chawla, J.

(1) Mrs. Bhanot has, of course, also denied that she ever had an affair with Major Multani. She says that the whole story is a pure fabrication by the husband. I have earlier stated the reasons why, I think, the story is highly improbable. That view has been greatly strengthened by the impression I have formed of Major Multani, after observing him under examination in court.

(2) It remains to consider some other reasons given by the Adj reaching a conclusion in favor of the husband. The Judge is right in thinking that on some points the wife had told lies, and there are various inconsistencies in her statements. For example, she said, she never knew any Capt. D.S. Multani. This was obviously not true, because even Capt. (now Major) Multani, who was called by her as a witness, said that they had met in Abohar. Again, in her W/s the wife had said that the husband was having illicit relations with one Mrs. Coral whom he used to bring to the house, and they would 'shut themselves' in a room even when she was at home. However, in her evidence she admitted that she had never lived with the husband in Calcutta. Consequently, there was no possibility of any such thing happening. Or, yet again, in her W/s the wife said she was 'physically beaten' by the husband, but no evidence was adduced in support of that allegation. There is not even her own statement to that effect. Because of these and other untruths, the judge said, he 'felt inclined to accept' the evidence of the husband regarding the wife's affair with Capt. Multani.

(3) The judge was also shocked by the fact that, on 16th August 1977 whilst residing with the husband's parents at Delhi, the wife had written to his Commanding Officer saying: 'I am staying here penniless and my husband is not maintaining me. The judge says that she was at that time being maintained by her in-laws. I do not think that the judge was quite right in taking this view. Surely, a wife, for her maintenance, needs more than mere boarding and lodging with her in-laws. She also needs some money to spend on herself. Hence, there was nothing so outrageous in her saying that she was not being maintained by her husband whilst residing with her in-laws.

(4) Another point which the judge uses against wife, is that when the preliminary issue as to jurisdiction was decided, she had taken the position that they had not last resided together in Delhi; but, after that issue was decided against her by a single judge of this Court, she began to allege that they had, and that she had been thrown out from her in-laws'house on 18/19 August 1977. As to having been thrown out of the house, the judge found against her since no such plea had been taken in her W/s or in the petition for maintenance which she had filed at Bareilly. On the contrary, the judge observes, the wife, in her W/s had said that 'because of

the torture she was compelled to leave the house of her in-laws.' That, according to the judge 'cannot be taken to be the same thing as her having been thrown out of the house'. It seems to me that the judge is drawing a useless distinction. Being thrown out of a house does not only mean being pushed out of it ; a wife is thrown out, equally, if conditions in the house are made so intolerable that she has no option but to leave. The whole legal concept of constructive desertion is based on that reasoning.

(5) Finally, the judge also makes use of the letter dated 8.10.77 written by the wife to her mother-in-law. He says, that, the story that she was maltreated at her in-laws' house 'stands discredited', because if that had been so, she would not have written such a letter 'full of love and affection towards the mother of the (husband)'. I do not think that letter shows any great love or affection, more than the usual pleasantries. The judge, I think, is here building too much on too little.

(6) What then is the overall result As I have said. I agree with the judge that on some of the points mentioned by him, the wife has not told the truth and has made inconsistent statements. That does not, however prove that she has told lies on every other point. The maxim 'falsus in uno falsus in omnibus' has not found favor with the courts in this country. The wife may have been ill-advised or misguided or just nervous. She was very young girl, probably appearing for the first time in a court. Some allowance should have been made on these considerations. But, in any case, having said everything possible against the wife, and taking her case to be false, one cannot jump to the conclusion that the husband's case is true. His case has still to stand on its own legs. As to that, I have already stated my opinion.

(7) The letters which the husband wrote to the wife, which I have quoted above, show conclusively that the problem ailing the marriage was not what the Adj has repeatedly referred to as the wife's 'lewd associations'. It was the husband's inability to have 'sex'with the wife. In this connection it is worth recalling that early in the case, the husband abandoned all intention of charging her with adultery. The fact that husband coerced the wife into writing the fictitious letters to Naresh and Capt, Tandon. shows that he knew that he had no case, and tried to fabricate one. It seems to me, that the mistake which the Adj has made is that he has lost

sight of the wood for the trees. He never got round to looking at the case as a whole, and examining the probabilities.

(8) Counsel for the husband cited quite a few authorities on the meaning of the word 'cruelty' as used in the Hindu Marriage Act. I do not need to refer to any of them, because I have disbelieved the case of the husband in its entirety. I would concede that if I had come to the opposite conclusion, and had agreed with the Adj the conduct of the wife would have amounted to cruelty.

(9) The Adj rejected the contention of the wife that, even supposing all that the husband had alleged was true, he had condoned her cruelty by living with her in Delhi in Aug., 1977. The judge said, that though (he husband and wife had lived under the same roof in Delhi in Aug. 1977, there was nothing to show that they had cohabited. To negative such an inference, he pointed to the evidence of the husband's father to the effect that he found that the husband and wife were constantly quarrelling. The Adj appears to have thought that, for condensation, it had to be shown that there had been cohabitation between the spouses. In this he was in error, as is clear from *Dr. N.G. Dastane vs . Ms. S, Dastane* : [1975]3SCR967 . Nevertheless, I would uphold him on the ground that there was no evidence of 'forgiveness' by the husband, and 'restoration' of the wife to the same position as she occupied before the alleged cruelty. Since I have found that she was not at all guilty of cruelty, the question of condensation really does not arise. I have referred to it only to record a finding on all the issues, as I am required to do. Appeal allowed.