

Krishna Vs. Attar Singh

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Court : Delhi

Decided On : Nov-22-1991

Reported in : 46(1992)DLT342; I(1992)DMC218; 1992RLR95

Judge : Mahinder Narain, J.

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

Appeal No. : First Appeal No. 1078 of 1990 and Civil Miscellaneous Appeal No. 2273 of 1991

Appellant : Krishna

Respondent : Attar Singh

Advocate for Pet/Ap. : T.S. Kwatara and; H.S. Kwatra, JJ

Judgement :

Mahinder Narain, J.

(1) The appellant relying upon the judgment of Division Bench of this Court in L.P.A. No. 62 of 1989 dated, 15-11-1989 (Harish Opal. v. Smt.Neera Dixit) reported as 1989 RLR 376, has filed an application bearing C.M. No. 2273 of 1991, seeking divorce from this Court on the basis of mutual consent. In the said L.P.A. No. 62 of 1989 also, the parties had moved an application under Section 13(B) of the Hindu Marriage Act, read with Section 151 of the Code of Civil

Procedure.

(2) The parties were married on 16-11-1983 at Delhi. There is no children born from the marriage of the parties. Since 26-5-1987, the parties have been living separately.

(3) A petition was filed by the appellant-wife on 8-1-1988, seeking dissolution of the marriage on the ground of cruelty under section 13(I)(ia) of the Hindu Marriage Act. That petition was, however dismissed, on 20-3-1990,

(4) Aggrieved, the appellant came in appeal.

(5) The appellant-wife is 30 years old, and the respondent-husband is 34 years old. It is not possible, according to the husband, for the parties to live together, and it would serve no purpose to make the parties wait any further.

(6) In view of the fact that the parties have been living separately since 26-5-1987, no purpose would be served by continuing acrimonious litigation, and it is appropriate that the parties filed in this Court an application under the provisions of Section 13-B(2) of the Hindu Marriage Act. I also think that in view of the judgment of this Court in L.P.A. No. 62 of 1989, there would be no purpose in driving the parties to the District Court again and again, for an extended period during which they have to make the first motion, and thereafter make the second motion.

(7) In view of the said judgment of this Court in L.P.A. No. 62 of 1989, I allow the application and dissolve the marriage between the parties by mutual consent forthwith, without requiring the parties to writ nor a further period of six months.

(8) The appellant has stated in Court that she will withdraw the criminal proceedings which are pending between the parties, being proceedings under Sections 406/498 of the Indian Penal Code, which are pending in the Court of Metropolitan Magistrate, Shahdara. The appellant shall make a statement In Court for quashing the F.I.R. No. 519 of 1987, pending in the Court of Metropolitan Magistrate, Shahdara, and the respondent Attar Singh shall be discharged/acquitted by the Court concerned.

(9) F.A.O. No. 107 of 1990 stand, disposed of accordingly. Registry to prepare a decree of divorce.

(10) Parties to bear their own costs.

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