

Mst. Kauri Vs. Deepa Singh

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Court : Rajasthan

Decided On : Feb-22-1974

Reported in : 1974WLN(UC)234

Judge : C.M. Lodha, J.

Appeal No. : S.B. Civil Misc. Appeal No. 27 of 1971

Appellant : Mst. Kauri

Respondent : Deepa Singh

Disposition : Appeal dismissed

Judgement :

C.M. Lodha, J.

1. This is a wife's appeal from the decree of restitution of conjugal rights granted against her in favour of the husband by the District Judge Sri Ganganagar by his judgment dated 31-10-1970.

2. The marriage between the spouses took place on 13th July, 1965 and the wife went to the husband's house about a year after the marriage on the completion of 'Muklawa' ceremony, and lived with him for 3 days only. The husband's case is that thereafter the appellant's brother took her from his house and since then the appellant has never returned to the husband. It is alleged by the respondent that

he called Panchayat of the members of his community several times so that some effort may be made by the Panchas to bring the appellant to the respondent's house. It was thus alleged that the appellant had withdrawn from the society of the respondent without any reasonable excuse.

3. The appellant-non petitioner resisted the respondent's application on the ground of cruelty and pleaded that the respondent asked for Rs. 10,000/- from her father by way of 'dowry' and was severely beaten by the respondent mother on account of not being able to get a 'dowry' of Rs. 10,000/- from her father.

4. After recording the evidence produced by the parties the learned District Judge Ganganagar found that the appellant had withdrawn from the society of the respondent without any reasonable excuse and therefore he granted a decree for restitution of conjugal rights.

5. In this appeal learned Counsel for the appellant has urged that it was proved that the respondent had treated the appellant with such cruelty as to cast a reasonable apprehension in the mind of the appellant that it would be harmful or injurious to her to live with the respondent.

6. The respondent examined himself and two more witnesses viz. Jugrajsingh and Hajur Singh. As observed by the lower court it is fully established by the evidence of the respondent and his two witnesses that the appellant stayed with the petitioner only for 3 days after the 'Muklawā' ceremony was performed and thereafter refused to live in the society of the respondent. These witnesses have been cross-examined at length but nothing has been brought out from their cross examination so as to discredit their testimony. In rebuttal the appellant examined herself as D. W. 1 and produced four other persons in support of her case. They are N.A.W. 2 Jagrup Singh, N. A.W. 3 Babu Singh, N.A.W. 4 Jethu Singh, and N.A.W. 6 Kartar Singh. No medical evidence has been placed on the record in support of the appellant's allegation that she was beaten. It is further clear that no report was made to the Police nor any complaint filed in the court in this respect. It may be pointed out that the respondent's mother is 60 years old whereas the appellant's brother Gura Singh who went to bring her from the respondent's house is a young man of 30 years. Even the respondent is younger than Gura Singh. It,

therefore does not stand to reason that Gura Singh may have suffered his sister being beaten in his presence. Not a single neighbour or member of the locality who could have witnessed the act of alleged beating has been produced by the appellant. It cannot be accepted, regard being had to the ordinary course of human conduct that on the very first night of their meeting a dowry of Rs. 10,000/- would be demanded from the appellant and her parents, who do not seem to belong to a comparatively prosperous Section of the society. The theory of beating by the mother-in-law put forth by the appellant seems to be a false and lame excuse to justify her act of not living in the society of her husband. There are discrepancies in the evidence of the appellant's witnesses regarding time and place of beating, and I, in agreement with the learned District Judge am not prepared to place any reliance on the type of evidence produced by the appellant. The appellant has thus not succeeded in establishing any justifiable cause for not living in the society of her husband & the decree for restitution of conjugal rights passed in favour of the respondent seems to be just and proper and does not call for any interference.

7. This appeal is therefore, dismissed, but without any order as to costs.

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