

Veena Danial Vs. Sunil Danial

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SooperKanoon Citation : sooperkanoon.com/758187

Court : Rajasthan

Decided On : Jul-26-1993

Reported in : I(1994)DMC375

Judge : K.C. Agrawal, C.J.,; M.B. Sharma and; M.R. Calla, JJ.

Acts : [Indian Divorce Act, 1869](#) - Sections 10 and 17

Appeal No. : Full Bench Civil Ref. No. 1 of 1991

Appellant : Veena Danial

Respondent : Sunil Danial

Advocate for Def. : None

Advocate for Pet/Ap. : P.N. Agrawal and; V.K. Agrawal, Advs.

Disposition : Appeal allowed

Judgement :

K.C. Agrawal, C.J.

1. This reference has been made by the Distt. Judge. Bharatpur for confirming the decree nisi passed in favour of the appellant against the respondent. The respondent and the appellant were married in accordance with the Christian Rites in June, 1984. Shortly, after the marriage the respondent in order to satisfy his lust

asked the appellant to have intercourse with him by indulging in sodomy. She resisted but the respondent succeeded in committing sodomy with the appellant. Thereafter, appellant left the place of her husband and come to her mother's house in Bharatpur in December, 1984. The respondent thereafter came to Bharatpur to take her. The mother of the appellant intervened and wanted to settle the matter in between them. But she could not succeed as a result whereof the appellant and the respondent could not have marital relations. The appellant, thereafter, filed an application before the Distt. Judge Bharatpur for passing of a decree for dissolution of marriage. The learned Distt. Judge issued notice to the respondent of the application. But that returned unserved The appellant produced evidence to prove the allegations made by her in the application. The Court was satisfied that she was entitled to a decree and granted the same of which confirmation had been sought by the Distt. Judge from the High Court by this application.

2. On the last turn when the application was listed before us, we made an order for service to be effected on the respondent but that has come back with the endorsement 'unclaimed' 'intimated'. We have perused the summons and we find that the service was effected on the mother of the respondent. In the circumstances, the service on the respondent will be deemed to be sufficient. No one has appeared today on behalf of the respondent to controvert the allegations made by the appellant about the behaviour, as he was doing carnal intercourse, which is unnatural Under Section 10 of Indian Divorce Act a wife could get a decree in her favour for dissolution of marriage if her husband commits sodomy on her. We are of the opinion that the appellant was rightly given a decree against the respondent. Consequently, we confirm the same.

3. In the result, the reference application is allowed and the decree of divorce granted by the Court below is confirmed.

The parties will bear their own costs.