

Salim Vs. Indira

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Court : Rajasthan

Decided On : Jun-03-2004

Reported in : II(2004)DMC292; 2004(4)WLC217

Judge : Ashok Parihar, J.

Appeal No. : Criminal Revision Petition Nos. 1217 and 1218 of 2002

Appellant : Salim

Respondent : indira

Advocate for Def. : D.V. Tholia, Adv.

Advocate for Pet/Ap. : Biri Singh, Adv.

Disposition : Petition dismissed

Judgement :

Ashok Parihar, J.

1. Since on similar set of facts, same relief has been claimed in both the petitions, on joint request of Counsel for the parties both the petitions have been heard together and are being decided by this common order.

2. The petitioners are aggrieved by the order dated 22.10.2002 passed by the Family Court, Jaipur by which respondent wives have been allowed Rs. 1,500/-per

month as maintenance in their respective claims.

3. It is a strange case of two real brothers who have married two real sisters on the same day. They have also alleged to have divorced their respective wives on the same day, time and place exactly in the same manner. As per the averments made by the wives before the Family Court, the marriage taken place as per Hindu rites which has been controverted by the petitioners asserting their marriage having took place as per Muslim rites. The Family Court, on the basis of evidence on record, came to a finding that the marriage had taken place as per Hindu rites and allowed the maintenance to ,the respondent wives accordingly in their respective claim petitions.

4. Even otherwise, as per recent judgment of Supreme Court in the case of Shamim Ara v. State of U.P. & Anr., reported in V (2002) SLT 538=IV (2002) CCR 105 (SC)=2002 (7) SCC 518, the Talak to be effective has to be proved. In the present case, there is no proof of Talak having taken place effectively. Both the petitioners-brothers have written a document of TALAK at the same time and date as also the place exactly in the same language. A bare reading of the document as placed on record creates serious doubts on the bona fides of both the petitioners. Moreso, when a bald averment in this regard in the written statement as also the statement made before the Trial Court has not been supported by any other cogent evidence. As per documents placed on record also does not establish that the marriage took place as per Muslim rites as asserted by the petitioners.

5. Since after due appreciation of evidence, proper discretion has been used by the Family Court, in the facts and circumstances, I find no ground for any further interference of this Court. Both the petitions are dismissed accordingly as having no merit. The record of the Family Court be sent back immediately.