

Smt Manju Vs. Prem Kumar

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Court : Rajasthan

Decided On : May-13-1982

Reported in : 1982WLN(UC)302

Judge : G.M. Lodha and; Kanta Bhatnagar, JJ.

Appeal No. : D.B. Civil Special Appeal No. 5/82

Appellant : Smt Manju

Respondent : Prem Kumar

Advocate for Pet/Ap. : Mr. Mithur

Disposition : Appeal dismissed

Judgement :

Kanta Bhatnagar, J.

1. This special appeal is directed against the judgment of the learned single Judge of this Court date 13th January, 1982, by which the decree passed by the Addl. District Judge No. 2, Jodhpur dated August 11, 1981 was affirmed and the appeal filed against the decree, was dismissed.

2. The learned Counsel for the appellant did not dispute before us the question of fact that the appellant Smt. Manju delivered a child on November 18, 1979 and the

marriage was solemnized on June 29, 1979. The contention of Mr. Mithur, learned Counsel for the appellant however is that the husband had coitus during the advanced stage of pregnancy and therefore, the finding of the learned single Judge that he was not having the knowledge of the advanced stage of pregnancy is not reasonable. According to the learned Counsel, the very fact of the husband having coitus during the advanced stage of pregnancy proves that the husband had condoned the default of the other spouse and therefore, on that account, the decree should not have been passed. On the perusal of the impugned judgment of the learned single Judge we find that the learned Judge has considered in detail this part of the contention and has arrived at the conclusion that it may not be possible for the husband to detect that the wife was pregnant. The learned Judge has placed reliance on the observations of Williams in 'Obstetrics', 12 Edition, at page 270, which read as under:

It should be borne in mind that the abdomen changes its shape materially according as the woman is in the upright or horizontal position, being much less prominent when she is lying down.

The judgment is based on sound reasonings and therefore, calls for no interference.

3. The appeal fails and is, therefore, dismissed summarily.

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