

Sunita Mehta Vs. Ramesh Mehta

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Court : Rajasthan

Decided On : Jan-05-1998

Reported in : I(1998)DMC290

Judge : M.P. Singh, Act. C.J. and; A.K. Parihar, J.

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

Appeal No. : Civil Misc. Appeal No. 354 of 1997

Appellant : Sunita Mehta

Respondent : Ramesh Mehta

Advocate for Def. : R.S. Rathore, Adv.

Advocate for Pet/Ap. : A.K. Sharma, Adv.

Disposition : Appeal dismissed

Judgement :

A.K. Parihar, J.

1. Present appeal has been filed by the appellant challenging the order dated 8.1.1997, passed by Family Court, Ajmer by which divorce petition, filed by the appellant u/Section 13 of the Hindu Marriage Act, has been dismissed by the Family Court.

2. The marriage took place on 3.12.1992. Out of the wedlock a son was also born on 21.11.1993 at Ajmer. Just after three years of the marriage the divorce petition was filed by the appellant-wife before the Family Court, Ajmer, on the ground of cruelty. Since there was ground of cruelty only, the Family Court framed issues and after taking evidence of both sides, held that ground of cruelty has not been proved at all and thus, dismissed the petition filed by the appellant u/Sec. 13 of the Hindu Marriage Act, vide order dated 8.1.1997.

3. Mr. Sharma, Counsel for the appellant, has vehemently argued that the findings of the learned Family Court are perverse and not based on material on record.

4. Contention of Mr. Sharma is that there is enough material on record to prove cruelty on the part of the husband. He has heavily relied on two letters submitted before the Family Court, showing that the respondent-husband was guilty of committing theft at his own sister's house, which is sufficient for mental torture for a wife.

5. He has further submitted that the husband was not employed anywhere and was living on the earnings of the appellant. The appellant got herself transferred to Bhilwara from Ajmer/ However, she could stay at Bhilwara only for three months and had to go back to her parents hou"a at Ajmer because of the torture of the appellant by her husband and his mother.

6. After having heard Counsel for the appellant, we have carefully gone through the entire material on record and also the letters relied upon by the Counsel.

7. Admittedly, the appellant was working as Teacher at Ajmer and she was married to respondent, who was living at Bhilwara. From the material, as has come on record, only one inference which can be gathered is that the appellant never wanted to go to Bhilwara to live at her matrimonial house. Though, she got herself, transferred to Bhilwara, she stayed there only for three months and returned back to Ajmer and ultimately got herself transferred back to Ajmer.

8. In the evidence, which has come on record, the appellant has not been able to make out any case of cruelty, either against her husband or his parents.

9. So far as letters written by niece and sister of respondent regarding committing theft are concerned, no reliance can be placed on them so far as cruelty on the part of the husband is concerned. Both niece and sister of the respondent were not produced in evidence and even the appellant has not been able to explain as to how she could got the original letters which were written to respondent by his niece and sister.

10. The marriage is a sacred relation and institution. Parties cannot be allowed to play with such relations on small pretexts, more so, when there is a child hanging between both the parties. It needs lot of patience and sacrifices to maintain such institution which can be run only by way of love, affection and mutual understanding.

11. In the facts and circumstances of the present case, we find no merit in the appeal and the same is hereby dismissed.

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