

**Rajesh Kumar Vs. Pushpa Soni**

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**Court :** Rajasthan

**Decided On :** Mar-13-2007

**Reported in :** RLW2007(4)Raj3058

**Judge :** Shiv Kumar Sharma and; Guman Singh, JJ.

**Appellant :** Rajesh Kumar

**Respondent :** Pushpa Soni

**Disposition :** Appeal dismissed

**Judgement :**

**Guman Singh, J.**

1. Challenge in the instant appeal is to the judgment and decree dated January 16, 2002 of the Family Court, Kota whereby the suit instituted by the appellant (for short 'husband') was dismissed against the respondent (for short 'wife') for decree of divorce under Section 13 of the Hindu Marriage Act.

2. Briefly stated, the facts are that the husband filed a petition under Section 13 of the Hindu Marriage Act 1955 wherein it was alleged that the parties were married about 3-4 years back and soon after the marriage an abrupt change in the behavior of the wife was noticed which resulted in quarrel on petty matters amounting to cruelty. It was further pleaded that soon after, the wife left for her

parents house alongwith her clothes and ornaments and she refused to return inspite of persistent efforts of the husband and as such petition under Section 9 of the Hindu Marriage Act was filed which however, was dismissed on account of his absence. It was also alleged that wife had illicit relations with so many persons before marriage and in view of these circumstances a decree for divorce was sought.

3. The wife filed written statement denying the facts pleaded by the husband in the petition. She also stated that the petitioner under Section 9 of the Hindu Marriage Act filed by the husband was settled for compromise wherein the husband had assured not to treat the wife in cruel manner and would desist from any demand of dowry and would not enter in second marriage driven out of the greed for dowry. However, the compromise was not entered into as the husband absented, himself and the petition was dismissed. Thereafter, the present petition under Section 13 of the Hindu Marriage Act was brought in the Court on dated 6.6.1998. It is further alleged that the husband had entered into second marriage with one Sandhya in April, 1999 this fact was concealed by him. It has been alleged that soon after the marriage with the wife respondent, the husband and his family started harassing her for not bringing sufficient dowry and also pressed her to bring one lac rupees in cash and a scooter. It has been alleged that in the year 1996 the husband treated her with cruelty and tried to burn her alive and also exterminated from her matrimonial home. In view of the above, the petition of the husband has been prayed to be dismissed.

4. Learned Counsel for the appellant husband contended that the wife had lodged an 1'IR against the husband under Section 498A & 406 IPC and the matter is pending in the Court. It was contended that the finding arrived at by the learned trial Court is not based on material evidence in favour of the appellant. Learned Counsel for the respondent wife has submitted that the finding of the learned trial Court is basted on proper appreciation of material evidence adduced by the respondent wife regarding the facts alleged by her leading to the conclusion that she was forced to live separately by the husband in view of the cruelty met out to her and also in view of the fact that the appellant husband had entered in second marriage with a lady named Sandhya.

5. Having pondered over the rival contentions, we find that the Family Court had discussed the evidence of the parties in detail and has drawn conclusion on the basis of the legal evidence adduced in the matter. On perusal of the judgment of the learned lower Court, it is clear that the learned family Court has come to the conclusion that in view of the evidence adduced by the wife, the appellant husband has not been able to prove illicit relation of the wife with any other person and it was also concluded that the wife was subjected to cruelty forcing her to leave matrimonial home and that the husband appellant had entered in second marriage with a lady named Sandhya. We see no reason to dislodge the findings of the learned lower Court with regard to the dismissal of the application of the appellant husband under Section 13 of the Hindu Marriage Act.

6. For these reasons, the appeal having been devoid of merit stands dismissed with no order as to costs.

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