

Bright Vs. Bright

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SooperKanoon Citation : sooperkanoon.com/859322

Court : Kolkata

Decided On : Jul-19-1909

Reported in : (1909)ILR36Cal964,4Ind.Cas.419

Judge : Fletcher, J.

Appellant : Bright

Respondent : Bright

Judgement :

Fletcher, J.

1. This is a petition presented to the Court by the petitioner for the purpose of obtaining the dissolution of his marriage with the respondent on the ground of her adultery with the co-respondent.
2. At the hearing, I was satisfied with the proof of the adultery and also with the reason given for not bringing the suit earlier.
3. The only question on which I reserved judgment was as to the jurisdiction to make a decree.
4. Now, the only period during which the petitioner and the respondent resided together in Calcutta was for a period of 16 or 17 days in the month of December 1901 when they finally separated. Prior to that, the petitioner and the respondent

had cohabited together at Raigarh, and if the petition had been presented when the parties were living together at Raigarh, it would have had to be presented to the High Court at Bombay.

5. At the time of the presentation of the present petition, the petitioner, the respondent and co-respondent were all resident in Bombay.

6. The petitioner, however, says that the Indian Divorce Act gives him an option of either bringing his suit in the High Court at Bombay as the place where the husband and wife 'reside,' or in this Court as being the High Court of the place where the parties 'last resided together.'

7. I have, therefore, to consider whether the husband and wife 'last resided together' during the short visit to the Grand Hotel, Calcutta, in December 1901.

8. I have come to the conclusion, not without some hesitation, that in this particular case the parties did last reside together in Calcutta. This, I think, is one of those cases where the husband and wife never had a permanent residence. The petitioner was engaged as an Engineer on the Railway and his habitation seems to have changed very frequently. It is difficult to say which of the many places at which he dwelt before he separated from his wife in 1901, was his 'residence' or 'last residence' except on the basis that this is one of the cases where the actual abode for the time being is the only residence.

9. I accordingly hold that the husband and wife 'last resided together' in Calcutta and pronounce a decree nisi for dissolution of the marriage between the petitioner and the respondent.

10. As there is no evidence that the co-respondent was aware that the respondent was a married woman before the filing of the petition, I can not make any order for costs against him

11. Attorneys for the petitioner: Leslie & Hinds.