

A
J.L. NANDA
v.
SMT. VEENA NANDA

DECEMBER 11, 1987

B [RANGANATH MISRA AND G.L. OZA, JJ.]

Plea for divorce by husband on grounds of cruelty and desertion by wife.

C The appellant and the respondent, husband and wife, were married under the Hindu Customs in February, 1961. Disagreement and disharmony between the two ensued from the very beginning after the marriage. The parties by and large lived together till February, 1971, and separately ever since thereafter except for a short period in 1975. The respondent-wife, as alleged by the appellant, did not like to live in the joint family and always created ugly scenes by quarrels, etc. The appellant was forced to live separately from the joint family, but even then, according to him, the conduct of the wife continued to be the same bad. The appellant alleged that he suffered a nervous breakdown because of her behaviour and had to be hospitalised. He, therefore, filed a petition for a decree of divorce on the grounds of cruelty and desertion. The trial Court granted the divorce. On appeal by the respondent, the High Court reversed the decision of the trial Court and dismissed the petition for divorce. A Letters Patent Appeal by the appellant was dismissed by the High Court. The appellant appealed to this Court for relief by special leave.

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F Dismissing the appeal, the Court,

F HELD: It could not be held that the respondent was behaving with the appellant in a manner which could be termed as cruelty, which entitled the appellant to get a decree of divorce. Sometimes, the temperament of the parties may not be conducive to each other, resulting in petty quarrels, but it could not be held on the basis of any material that the ailment of the appellant was the direct result of the respondent's conduct. The High Court was right in coming to the conclusion that there was no material to prove that the respondent treated the appellant with such a cruelty as would entitle the appellant to a decree of divorce. The judgment of the High Court maintained. [350G-H; 351A-B]

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H CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3946 of 1987.

From the Judgment and Order dated 22.7.1983 of the High Court of Delhi in L.P.A. No. 141 of 1982 (M).

P.N. Misra for the Appellant.

Krishan Kumar and Vimal Dave for the Respondent.

The Judgment of the Court was delivered by

OZA, J. Leave granted.

This appeal arises out of SLP(Civil) No. 14149/83 filed by the petitioner husband against the judgment of High Court of Delhi in Letters Patent Appeal No. 141/82 decided on 22.7.83. The present appellant husband filed a petition in the trial court for decree of divorce on the ground of cruelty and desertion. The trial court granted the decree of divorce but on appeal by the respondent wife learned Single Judge of High Court of Delhi reversed the decision and dismissed the petition filed by the appellant husband. It is against this that a Letters Patent Appeal under clause 10 of the Letters Patent was filed before the High Court wherein it was heard by a Division Bench of the High Court and the appeal filed by the appellant was dismissed. It is against this that the present special leave petition was filed.

Considering the circumstances of the case and the age of the parties we issued notice and also directed the parties to appear before us in chambers and in spite of our best efforts it is unfortunate that no reconciliation was possible.

It is one of those unfortunate cases where the husband and wife are of mature age not only that but they have a grown-up son who is maturing into a lawyer as he is studying in law and unfortunately even these circumstances were not able to bring about an amicable settlement in the matter.

The parties to these proceedings were married at Delhi in accordance with the Hindu customs on February 7, 1961. It seems that there was disagreement and disharmony from the very beginning. A male child, however, was born out of this wedlock on August 30, 1964. The parties by and large lived together till February 1971. They have lived separately ever since except for a short duration in the middle of 1975 when they were together. The main allegation of the appellant was that from the very beginning the respondent wife did not like to

A live in the joint family and she used to behave in a peculiar manner always created ugly scenes, indulged in quarrels and taunting and ultimately forced the appellant to shift to a government allotted quarter and live separately away from other members of the family but according to him even then her behaviour continued to be the same and it was also alleged that because of her behaviour ultimately the
B appellant suffered a nervous break down and had to be admitted in the Willingdon Hospital New Delhi for about 45 days.

The Division Bench of the High Court came to the conclusion that from perusal of all the facts alleged it appears that there may have been a few incidents prior to the birth of the child on August 30, 1964 but after that there was no such incident pleaded or proved till 1966
C except for the allegation that the wife got the pregnancy terminated sometime in 1966 against the wishes of the appellant and on this basis the learned Judges of the Division Bench came to the conclusion that the early part before August 1964 probably was a period of inexperience and lack of adjustment between the husband and wife but ultimately after the birth of the son in 1964 there appears to be nothing
D serious and in this view of the matter the learned Judges came to the conclusion that between 1963 and 1968 there appears to be no incident or problem which really deserves consideration. A small matter about her describing herself Mrs. Veena Vohra instead of Mrs. Veena Nanda the learned Judges have considered and have accepted the explanation
E of the wife as plausible. The learned Judges of the Division Bench have considered all the circumstances and have also referred to the correspondence and the letters wherein regrets have been expressed in some matters by the respondent. Considering all these facts, the Division Bench came to the conclusion that although it is unfortunate that they have not been keeping good relations but it could not be said to be
F a case of cruelty entitling the appellant to a decree for divorce.

Having heard learned counsel for the parties and also having heard the parties themselves we come to the same conclusion as was reached by the learned Judges of the Division Bench of the High Court while disposing of the appeal filed by the appellant against the judgment of the learned Single Judge. It is no doubt an unfortunate state of
G affairs but it could not be held that the respondent was behaving with the appellant in a manner which could be termed as cruelty which would entitle the appellant to a decree for divorce. Sometimes the temperament of the parties may not be conducive to each other which may result in petty quarrels and troubles although it was contended by the
H appellant that he had to suffer various ailments on account of this kind

of behaviour meted out to him by the wife but it could not be held on the basis of any material that ailment of the appellant was the direct result of her (respondent's) conduct. The Division Bench therefore was right in coming to the conclusion that there is no material to come to the conclusion that the respondent treated the appellant with such cruelty as would entitle him to a decree for divorce. In view of the facts and circumstances, therefore, the appeal is devoid of merit. It is therefore dismissed. The judgment of the High Court of Delhi is maintained. In the circumstances of the case respondent shall be entitled to costs of this appeal. The counsel's fee is quantified at Rs.3,000.

S.L.

Appeal dismissed.